CHAPTER 141. MUNICIPAL FINANCING

FUNDING OF FLOATING INDEBTEDNESS
Act 369 of 1925

141.1-141.4 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

COUNTY SINKING FUND COMMISSION
Act 42 of 1913

AN ACT to provide for the creation of a county sinking fund commission, to prescribe the powers and duties thereof, and to repeal all acts and parts of acts contravening the provisions of this act.

History: 1913, Act 42, Eff. Aug. 14, 1913.

The People of the State of Michigan enact:

141.11 County sinking fund commissioners.

Sec. 1. The county treasurer, the register of deeds, the county clerk, the chairman of the board of supervisors and the chairman of the finance committee of the board of supervisors of the several counties of this state, shall constitute and be a board of county sinking fund commissioners.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2386;—CL 1929, 1235;—CL 1948, 141.11.

141.12 County sinking fund commissioners; handling of fund, investment.

Sec. 2. The said board of sinking fund commissioners shall from time to time upon the best terms it can make, purchase or pay the outstanding bonded debt of the county, or such part thereof as it may be able to purchase or pay, until the full amount thereof be fully purchased or paid. Whenever it cannot arrange for the purchasing or paying of said debt, or any part thereof, it shall temporarily and until it can so arrange, invest the moneys belonging to the sinking fund in such interest bearing securities as it may deem advisable; and all matured bonds or evidences of debt so purchased shall be delivered to the county treasurer and shall become and be the property of the county, held and controlled by said board of sinking fund commissioners, and the interest thereon as it thereafter becomes due shall be credited and belong to the sinking fund.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2387;—CL 1929, 1236;—CL 1948, 141.12.

141.13 County sinking fund commissioners; control of fund, application.

Sec. 3. Said board of sinking fund commissioners shall have exclusive control of the money of the sinking fund, and shall faithfully apply the same whenever possible, or it may appear to the county's interests, to the payment of the principal and interest of the bonded indebtedness of the county, and to no other purpose whatever, excepting as herein otherwise provided.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2388;—CL 1929, 1237;—CL 1948, 141.13.

141.14 Board of sinking fund commissioners; annual meeting; transaction of business; rules; quorum; payment of outstanding debt; investment of money; presiding officer; clerk; record; conducting business at public meeting; notice of meeting; availability of certain writings to public.

Sec. 4. (1) The annual meeting of the board of sinking fund commissioners shall be held on the first Tuesday in September of each year. The board of sinking fund commissioners may meet from time to time for the transaction of business, and may adopt rules of proceeding for its meeting. A majority of the whole board shall constitute a quorum for the transaction of business, but shall not purchase or pay the outstanding debt of the county or invest money belonging to the sinking fund as provided in this act, except under a resolution for that purpose passed and approved by a 2/3 vote of the whole board by ayes and nays to be entered on the record at a regular meeting or a special meeting called for that purpose. The chairperson of the county board of commissioners, or in case of his or her absence, some member to be designated by those present, shall preside at the meeting of the board. The county clerk shall be the clerk of the board of sinking fund commissioners, and it shall be the clerks duty to keep a true record of all meetings of the board. The record shall be kept on file in and be a part of the records of the office of the county clerk.

(2) The business which the board of sinking fund commissioners may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(3) A writing prepared, owned, used, in the possession of, or retained by the board of sinking fund commissioners in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2389;—CL 1929, 1238;—CL 1948, 141.14;—Am. 1977, Act 194, Imd. Eff. Nov. 17, 1977.

141.15 County treasurer; duties as custodian, bond.

Sec. 5. The county treasurer shall have custody of all moneys, securities and evidences of debt belonging to or pertaining to said sinking fund, and he shall pay out the moneys of said fund only by order of the board of sinking fund commissioners by a 2/3 vote of the members thereof as aforesaid, and upon the warrant of the chairman of the board of supervisors, countersigned by the clerk. The official bond of the county treasurer shall cover any and all funds in his hands belonging to the sinking fund.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2390;—CL 1929, 1239;—CL 1948, 141.15.

141.16 Condition reports to supervisors; tax recommendations.

Sec. 6. Said board of sinking fund commissioners shall from time to time, but at least annually, and whenever requested by the board of supervisors, make report of the condition of the sinking fund, which report shall be made to the board of supervisors and then referred to and filed with the county clerk and be recorded by him. It shall recommend to the board of supervisors the sum of money that in its judgment should be raised by direct taxation for the benefit of the sinking fund.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2391;—CL 1929, 1240;—CL 1948, 141.16.

141.17 Tax levy; bond sale proceeds, interest, deposit.

Sec. 7. The board of supervisors shall in each year levy and collect a tax for the benefit of the sinking fund. Whenever any bonds of the county shall be sold for more than par value all of the premium or amount received on such sale more than the par face value of the bonds sold, not including interest accrued upon said bonds that may be paid by the purchaser, shall be credited and belong to the sinking fund. All of the interest paid to the county on the securities held by the county shall belong to and be placed in the sinking fund.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2392;—CL 1929, 1241;—CL 1948, 141.17.

141.18 Per diem; expenses; county charge.

Sec. 8. The necessary expenses of the board of sinking fund commissioners incurred in the performing of any of their duties imposed upon them by this act shall be a proper charge against said county to be paid from the general fund. The chairman of the board of supervisors and the chairman of the finance committee shall receive as compensation the sum of 3 dollars per day for each and every day they shall actually attend any regular or special meeting of said board of sinking fund commissioners, and they shall also receive their traveling expenses at the rate of 10 cents a mile 1 way figuring over the usual traveled route from their residence to the place of meetings of said board.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2393;—CL 1929, 1242;—CL 1948, 141.18.

141.19 Commissioner's rules.

Sec. 9. Said board of sinking fund commissioners is authorized to adopt rules not in conflict herewith for the government of its actions, and shall be authorized for the purpose of enforcing the collection of any bonds or securities taken by it to bring suit in the name of the county board of sinking fund commissioners.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2394;—CL 1929, 1243;—CL 1948, 141.19.

141.20 Approval of act by supervisors.

Sec. 10. Before this act shall be operative in any county in this state it shall be adopted by a 2/3 vote of the board of supervisors regularly convened at any regular, adjourned or special meeting of said board of supervisors for that particular county.

History: 1913, Act 42, Eff. Aug. 14, 1913;—CL 1915, 2395;—CL 1929, 1244;—CL 1948, 141.20.

BOARD OF SINKING FUND COMMISSIONERS
Act 161 of 1923

AN ACT to provide for the establishment of county sinking funds and to create a county sinking fund commission; to prescribe the powers and duties thereof; to prescribe penalties and provide remedies; and to repeal all acts and parts of acts contravening the provisions of this act.

History: 1923, Act 161, Eff. Aug. 30, 1923;—Am. 1998, Act 163, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

141.31 Bond issues; requisite sinking funds.

Sec. 1. That from and after the passage of this act, before any county in the state of Michigan shall issue any bonds except serial bonds and bonds having a special security, the legislative body of such county shall pass a resolution providing for the levying and assessment in each year during the life of the bonds to be issued of a tax which shall raise annually a sufficient sum to pay the interest on said bonds as the same shall accrue and to pay the principal of said bonds at maturity. Said resolution may contain a proviso that the amount levied and assessed in any 1 year under the provisions of the resolution may be reduced by the amount of money earned by the sinking fund during the immediately preceding year. The county treasurer shall keep a separate and distinct account for each item of the sinking fund set aside and pledged to the retirement of each issue of county bonds.

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1246;—CL 1948, 141.31.

141.32 Sinking fund commissioners.

Sec. 2. The county treasurer, the county clerk, the register of deeds, the chairman of the board of supervisors and the chairman of the finance committee of the board of supervisors of the several counties of this state shall constitute and be a board of sinking fund commissioners: Provided, however, That in counties having a board of auditors, the board of sinking fund commissioners shall consist of the county treasurer, the county clerk, chairman of the board of supervisors and the chairman of the board of county auditors.

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1247;—CL 1948, 141.32.

141.33 Sinking fund commissioners; control of fund, application; payment, manner.

Sec. 3. The said board of sinking fund commissioners shall have exclusive control of the money of the sinking fund and shall faithfully apply the same whenever possible, or it may appear to the county's interests, to the payment of the principal and interest of the bonded indebtedness of the county, and to no other purpose whatever, excepting as herein otherwise provided. The moneys in the sinking fund and the various accounts thereof shall be held by the county treasurer but no warrant shall be paid from said fund except in compliance with the resolution duly passed by said board of sinking fund commissioners, appearing upon the minutes of said board, and upon a warrant countersigned by the chairman of the board of sinking fund commissioners: Provided, however, That the countersigning of any warrant by the chairman of the board of sinking fund commissioners shall be invalid unless the signature include the designation “chairman of the board of sinking fund commissioners.”

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1248;—CL 1948, 141.33.

141.34 Sinking fund commissioners; handling of funds, investment; bonded debt.

Sec. 4. The said board of sinking fund commissioners shall from time to time, as it shall deem expedient, purchase or pay the outstanding bonded debt of the county or such part thereof as it may be able to purchase or pay until the full amount thereof be fully purchased or paid. Whenever the board of sinking fund commissioners cannot arrange for the purchasing or paying of said debt or any part thereof, it shall temporarily, or until it can so arrange, invest the moneys belonging to the sinking fund in such interest bearing securities issued by the state of Michigan or by any municipal subdivision thereof or by the United States government as it may deem advisable; and all matured bonds or evidences of debt so purchased shall be delivered to the county treasurer and shall become and be the property of the county, held and controlled by said board of sinking fund commissioners, and the interest thereon as it thereafter becomes due shall be credited and belong to the sinking fund.

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1249;—CL 1948, 141.34.

141.35 Sinking fund commissioners; annual meeting, procedure; rules; authorizing vote; clerk, records.

Sec. 5. The annual meeting of the said board of sinking fund commissioners shall be held on the first Tuesday of each year. Said board may, however, meet from time to time for the transaction of business and may adopt rules of procedure for its meetings. A majority of the whole board shall constitute a quorum for the transaction of business but they shall not purchase or pay the outstanding debt of said county, or invest any of the money belonging to the sinking fund as above provided, unless by affirmative vote taken by yeas and nays, entered upon the record, showing a 3/5 vote of all the members-elect at a regular meeting or a special meeting called for such purpose. The county clerk shall be clerk of the board of sinking fund commissioners and the chairman shall be either the chairman of the board of supervisors or the chairman of the board of county auditors as the case may be. The records of the sinking fund commission shall be kept on file in the office of the county clerk as part of his official records.

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1250;—CL 1948, 141.35.

141.36 Sinking fund commissioners; condition reports to board; tax recommendations.

Sec. 6. The board of sinking fund commissioners shall from time to time, but at least annually, and whenever requested by the board of supervisors, make report of the condition of the sinking fund, which report shall be made to the board of supervisors and then referred to and filed with the county clerk and be recorded by him. It shall recommend to the board of supervisors the sum of money that in its judgment should be raised by direct taxation for the benefit of the sinking fund.

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1251;—CL 1948, 141.36.

141.37 Bond sale; interest, credit; expenses of commissioners.

Sec. 7. Whenever any issue of the bonds of the county shall be sold for more than par value all the premium and accrued interest shall be credited and belong to the sinking fund. All the interest paid to the county on securities held by the county shall belong to and be placed in the sinking fund. The board of sinking fund commissioners shall receive their actual expenses incurred in the performance of their duties which shall be a proper charge against the county to be paid from the general fund.

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1252;—CL 1948, 141.37.

141.38 Suit on securities.

Sec. 8. The said board of sinking fund commissioners shall have power and authority to bring suit for the purpose of enforcing the collection of any bonds or securities taken by it for the benefit of the sinking fund or for any purpose within the scope of their duties, but said suits shall be instituted and carried on in the name of the county.

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1253;—CL 1948, 141.38.

141.39 Saving clause; construction of act.

Sec. 9. In any county within the state of Michigan, which may have elected to act under the provisions of Act No. 42 of the Public Acts of 1913, the provisions of said act shall continue in force in said county until said county shall by referendum elect to operate under the provisions of this act. This act shall not be construed to supersede the provisions of any local or special act relating to the establishment or maintenance of a county sinking fund effective in any county of the state of Michigan until such county by referendum shall elect to come under the provisions of this act. Such referendum may be had by resolution of the board of supervisors, either of its own motion or upon the petition of 10 per centum of the electors of the county.

History: 1923, Act 161, Eff. Aug. 30, 1923;—CL 1929, 1254;—CL 1948, 141.39.

Compiler's note: For provisions of Act 42 of 1913, referred to in this section, see MCL 141.11 et seq.

141.40 Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 10. A petition under section 9, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 163, Eff. Mar. 23, 1999.

COUNTY PUBLIC IMPROVEMENTS
Act 342 of 1965

141.41-141.47 Repealed. 1978, Act 69, Imd. Eff. Mar. 21, 1978.

SINKING FUND FOR PUBLIC BUILDINGS
Act 14 of 1926 (Ex. Sess.)

AN ACT to authorize the board of supervisors of any county to create a sinking fund for the purpose of purchasing real estate for sites for, and constructing or repairing public buildings; to authorize such boards to submit the question of levying a tax to create such sinking fund to the electors of their certain counties and to provide for the manner of submission.

History: 1926, Ex. Sess., Act 14, Imd. Eff. Mar. 13, 1926.

The People of the State of Michigan enact:

141.51 Creation of sinking fund for public buildings and sites; tax referendum.

Sec. 1. The board of supervisors of any county are hereby authorized to levy a tax of not to exceed 2 mills on the assessed valuation of said county each year for a period of not to exceed 10 years, for the purpose of creating a sinking fund to be used for the purchase of real estate for sites for, and the construction or repair of public buildings; provided the proposition of levying such tax to create such sinking fund shall be submitted to the electors of the county and approved by a majority of those voting thereon in the manner provided in this act.

History: 1926, Ex. Sess., Act 14, Imd. Eff. Mar. 13, 1926;—CL 1929, 1256;—CL 1948, 141.51.

141.52 Tax referendum procedure.

Sec. 2. Whenever the board of supervisors of any county shall by resolution vote in favor of levying a tax to create a sinking fund as provided in section 1 of this act, the question of levying such tax shall be submitted to the electors of the county at the general November election, the annual spring election, or at any special election called for that purpose, subsequent to the passage of such resolution by the board of supervisors. A copy of such resolution shall be served upon the sheriff of the county by the county clerk. It shall be the duty of the sheriff at least 20 days prior to the date of the election, at which such question shall be submitted to the electors, to cause to be delivered to the township clerk in each township, and to the city clerk in each city in his county, a notice in writing that at such election there will be submitted to the electors of such county the question of raising the amount prescribed in the resolution passed by the board of supervisors, and to cause the same to be published in 1 or more newspapers printed and circulating in said county, if one be printed and circulated therein, at least once during each of 2 consecutive weeks before said election.

History: 1926, Ex. Sess., Act 14, Imd. Eff. Mar. 13, 1926;—Am. 1927, Act 184, Eff. Sept. 5, 1927;—CL 1929, 1257;—CL 1948, 141.52.

141.53 Requisite notices.

Sec. 3. It shall be the duty of the township clerk or city clerk upon receipt of the notice herein required, to give notice in writing under his hand of the time and place when such question will be submitted to the electors. Such township clerk or city clerk shall cause such notice to be posted up in at least 5 of the most public places in the said township or in 5 of the most public places in each ward of said city at least 10 days before said election.

History: 1926, Ex. Sess., Act 14, Imd. Eff. Mar. 13, 1926;—Am. 1927, Act 184, Eff. Sept. 5, 1927;—CL 1929, 1258;—CL 1948, 141.53.

141.54 Ballots; form, contents, distribution, counting; authorizing vote; levy.

Sec. 4. It shall be the duty of the board of election commissioners of such county to prepare the necessary ballots for the use of the electors in voting upon the question referred to in this act. The said question shall be printed upon a ballot separate and distinct from all other ballots, which ballot shall be in the following form:

Instruction to Voter.

Mark a cross in the square to the left of the word "Yes" or "No."

"To authorize the board of supervisors to levy a tax of ..... each year for a period of ..... years, to create a sinking fund to be used for ....

.... [ ]"Yes".
.... [ ]"No".

There shall be inserted in the above blanks the amount of the tax to be assessed each year, not exceeding 2 mills in any case, the number of years for which the tax is to be levied and the purpose for which the sinking fund to be created shall be used. The ballots so prepared shall be distributed by the board of election commissioners within the same time and in the same manner that ballots are distributed prior to a general election. All ballots upon which an elector marks a cross in the square to the left of the word “Yes,” shall be counted in favor of levying the tax stated in the resolution of the board of supervisors, and all ballots upon which an elector marks a cross in the square to the left of the word “No”, shall be counted against the question of levying the tax stated in the resolution of the board of supervisors. All ballots cast at any election on such question, shall be received, counted, canvassed and returned in the manner now governing for the election of county officers. If at any election a majority of the electors voting on such question shall decide in favor of authorizing the board of supervisors to levy the tax in the amount and for the period of years set forth in said resolution, it shall be the duty of the board of supervisors to levy said tax, commencing with the next annual tax roll following said election and continuing for the full period of years as set forth in said resolution.

History: 1926, Ex. Sess., Act 14, Imd. Eff. Mar. 13, 1926;—CL 1929, 1259;—CL 1948, 141.54.

141.55 Sinking fund control.

Sec. 5. The sinking fund to be created under the provisions of this act shall be under the control of the board of county sinking fund commissioners provided by Act No. 42 of the Public Acts of 1913, the same being sections 2386 to 2396 of the Compiled Laws of 1915, or provided by Act No. 161 of the Public Acts of 1923, subject to the supervision and direction of the board of supervisors.

History: 1926, Ex. Sess., Act 14, Imd. Eff. Mar. 13, 1926;—CL 1929, 1260;—CL 1948, 141.55.

Compiler's note: For provisions of Act 42 of 1913, referred to in this section, see MCL 141.11 et seq. For provisions of Act 161 of 1923 , also referred to in this section, see MCL 141.31 et seq.

PERMANENT IMPROVEMENTS BY COUNTIES
Act 118 of 1923

AN ACT to authorize counties to raise by loan, expend from unallocated moneys on hand, or borrow money for permanent improvements, to issue bonds, and to levy taxes to the extent necessary for the repayment of the bonds.

History: 1923, Act 118, Eff. Aug. 30, 1923;—Am. 1941, Act 282, Eff. Jan. 10, 1942;—Am. 1973, Act 123, Imd. Eff. Aug. 21, 1973.

The People of the State of Michigan enact:

141.61 Borrowing money for permanent improvements; issuance, sale, and payment of bonds.

Sec. 1. When the county board of commissioners of any county within this state considers it expedient for the county or its lawful officers, agents, and servants to make or cause to be made any permanent improvement or improvements in or additions to or about roads, highways, bridges, boulevards, parks, buildings, courthouses, infirmaries, sanatoria, or any other permanent improvements, authorized by law, relating to county property or to public property under the control or management of county authorities, the county board of commissioners may, by resolution of a majority of the members-elect, authorize and direct the borrowing on the faith and credit of the county of the sums of money as in the judgment of the board may be needed, subject to the constitutional limitations upon county indebtedness, and the county board of commissioners may, in the resolution, authorize and direct the issue and sale of bonds of the county to secure the repayment of the sums borrowed, which bonds shall be paid from taxes levied without limitation as to rate or amount to the extent necessary for the repayment of the bonds. For any permanent improvement that may lawfully be made by the county authorities on the faith and credit of the county, the bonds of the county may be issued and sold to raise the money to pay for the improvement, or the bonds may be issued and negotiated to secure the payment of indebtedness incurred in making the permanent improvements. The bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1923, Act 118, Eff. Aug. 30, 1923;—CL 1929, 2347;—Am. 1941, Act 282, Eff. Jan. 10, 1942;—CL 1948, 141.61;—Am. 1973, Act 123, Imd. Eff. Aug. 21, 1973;—Am. 2002, Act 286, Imd. Eff. May 9, 2002.

141.61a Constructing, equipping, or making alterations in public buildings; authorization of expenditures.

Sec. 1a. The county board of commissioners without submitting the same to the vote of the electors may authorize annually the expenditure of any funds on hand not raised by taxation for the purpose of constructing, equipping, or making alterations in any of the public buildings in the county if the county board of commissioners shall by resolution of a majority of the total membership of the board authorize the same.

History: Add. 1941, Act 282, Eff. Jan. 10, 1942;—CL 1948, 141.61a;—Am. 1957, Act 186, Imd. Eff. June 4, 1957;—Am. 1973, Act 123, Imd. Eff. Aug. 21, 1973;—Am. 1975, Act 162, Imd. Eff. July 14, 1975.

141.62 Board's resolution; contents; referendum.

Sec. 2. The resolution of the board of supervisors shall contain a proviso that it shall not become effective or binding upon the county until it shall be approved by a majority of the electors voting at an election to be designated. The board of supervisors may submit the question of the issue and sale of said bonds at any regular election held under the general laws of the state of Michigan at which the electors of the entire county vote, or it may designate a special election to be called by the county clerk by direction of said board of supervisors for the purpose of submitting to the electors the question of issuing said bonds. The board of supervisors may call a special election for the purposes of this act upon a date coincident with any local or municipal election or primary election for any portion of the county.

History: 1923, Act 118, Eff. Aug. 30, 1923;—CL 1929, 2348;—CL 1948, 141.62.

141.63 Board's resolution; required notices; election procedure; construed.

Sec. 3. The county clerk shall, at least 30 days before any election at which the electors are to vote on any county bond issue, serve a copy of said resolution on the sheriff of the county and the sheriff shall, at least 20 days before said election, cause to be posted in 2 of the most public and conspicuous places in each election precinct or district in the county notices of said election containing the full text of the resolution aforesaid. The county clerk shall also cause to be published in at least 1 newspaper having a general circulation in the county, one published in the county, if such there be, a like notice for 3 successive weeks immediately prior to said election. The county clerk shall also cause to be served on the clerk of each city, village and township a copy of said resolution, at least 30 days before the time fixed for the holding of said election. All municipal and township authorities shall take such action relating to said election as shall be necessary to provide for the holding thereof but no election called under the provisions of this act shall be construed as a special municipal election within the limitations of Act No. 278 or Act No. 279 of the Public Acts of 1909 and amendments thereto. The notice required to be posted by the sheriff and published by the county clerk shall be deemed sufficient notice of said election. All elections herein provided for shall be conducted, all votes shall be received and counted, and all returns shall be made in accordance with the general election laws of the state of Michigan, unless herein otherwise provided: Provided, Where in any bond issues heretofore approved, the giving and posting of the notices required by this section have been made in accordance with the provisions of Act No. 351 of the Public Acts of 1925, rather than as heretofore provided for in this section, the said bond issues and all bonds issued thereunder are hereby validated, approved and confirmed as to the giving and posting of such notices.

History: 1923, Act 118, Eff. Aug. 30, 1923;—Am. 1929, Act 243, Imd. Eff. May 22, 1929;—CL 1929, 2349;—CL 1948, 141.63.

Compiler's note: For provisions of Act 278 of 1909 and Act 279 of 1909, referred to in this section, see MCL 78.1 et seq. and MCL 117.1 et seq., respectively. Act 351 of 1925, also referred to in this section, was repealed by Act 116 of 1954. See now MCL 168.1 et seq.

141.64 Election returns; certificate, recording; authorized acts.

Sec. 4. When the returns from the election herein provided for shall show that a majority of the electors of the county voting thereon have approved the resolution of the board of supervisors aforesaid, the county clerk shall make a certificate to this effect and shall record the same with the official record of the proceedings of the board of supervisors and thereupon said resolution shall become and be effective and binding upon the county, its officers, agents, servants and electors, and the authority delegated to and the duties imposed upon officers, agents and servants shall attach to and become and be binding upon such officers, agents and servants of the county and all who deal with them as representatives of the county; and all things provided for in said resolution may be done for, on behalf of, and on account of said county.

History: 1923, Act 118, Eff. Aug. 30, 1923;—CL 1929, 2350;—CL 1948, 141.64.

141.65 Provisions cumulative; election.

Sec. 5. This act and the powers and authority hereby granted shall be deemed cumulative and confirmatory of powers heretofore or hereafter granted to counties to borrow money or incur obligations for county purposes or issue bonds of the county or contract to secure repayment of moneys borrowed. If provision was heretofore or hereafter made for borrowing money, incurring obligations, or issuing bonds by counties, those provisions or the provisions of this act may be followed at the election of county authorities.

History: 1923, Act 118, Eff. Aug. 30, 1923;—CL 1929, 2351;—CL 1948, 141.65;—Am. 1973, Act 123, Imd. Eff. Aug. 21, 1973;—Am. 1975, Act 162, Imd. Eff. July 14, 1975.

141.66 Validation clause.

Sec. 6. Nothing in this act shall invalidate any bonds heretofore authorized or any proceedings heretofore taken to authorize the issuance of bonds by any county of the state, but all proceedings and elections heretofore since January 1, 1920, taken and held to authorize the issuance of bonds of any county, and all bonds heretofore issued under authority of a vote of a majority of the electors in said county, voting upon the question at an election held for that purpose are hereby validated, approved and confirmed.

History: 1923, Act 118, Eff. Aug. 30, 1923;—CL 1929, 2352;—CL 1948, 141.66.

PUBLIC BUILDINGS AND BRIDGES
Act 28 of 1911

AN ACT to authorize the board of supervisors of any county to raise by taxation or borrow money for the purpose of purchasing real estate for sites for, and constructing or repairing public buildings and bridges; to limit the amount that can be raised or borrowed for such purpose by such boards in certain cases; to authorize such boards to submit the question of raising or borrowing money for such purposes to the electors of their certain counties; to provide for the manner of submission; and to repeal Act No. 41 of the Public Acts of 1909, entitled "An act limiting the amount which may be raised in any county in any 1 year by the board of supervisors," approved April twenty-first, 1909.

History: 1911, Act 28, Eff. Aug. 1, 1911.

The People of the State of Michigan enact:

141.71 Tax for sites, construction, or repair of public buildings or bridges; limitations; bonds subject to revised municipal finance act.

Sec. 1. (1) The county board of commissioners of a county may, subject to the limitations provided in the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a, in any 1 year levy a tax for purchase of real estate for sites for, and the construction or repair of public buildings or bridges. The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount and in addition to any other taxes, even though the bonds or other evidences of indebtedness were issued for the foregoing purposes.

(2) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1911, Act 28, Eff. Aug. 1, 1911;—CL 1915, 2306;—Am. 1919, Act 40, Imd. Eff. Mar. 31, 1919;—CL 1929, 2353;—CL 1948, 141.71;—Am. 1973, Act 125, Imd. Eff. Aug. 22, 1973;—Am. 2002, Act 338, Imd. Eff. May 23, 2002.

Former law: See Act 41 of 1909.

141.72 Board of supervisors; excess sums; referendum, procedure.

Sec. 2. Whenever the board of supervisors of any county shall by resolution vote in favor of levying a tax or borrowing money in excess of the amounts prescribed in section 1 of this act, the question of levying or borrowing such sum shall be submitted to the electors of the county at the general November election, or the biennial spring election, or at an election to be held on the first Monday in April subsequent to the passage of such resolution by the board of supervisors. A copy of such resolution shall be served upon the sheriff of the county by the county clerk. It shall be the duty of the sheriff at least 20 days prior to the date of the election, at which such question shall be submitted to the electors, to cause to be delivered to the township clerk in each township, and to the chairman of the board of election inspectors in each ward in any city in his county, a notice in writing that at such election there will be submitted to the electors of such county the question of raising the amount prescribed in the resolution passed by the board of supervisors, and cause the same to be published in 1 or more newspapers printed and circulating in said county, if 1 be printed and circulated therein, at least 2 consecutive weeks before said election.

History: 1911, Act 28, Eff. Aug. 1, 1911;—CL 1915, 2307;—CL 1929, 2354;—CL 1948, 141.72.

141.73 Notice of election; posting.

Sec. 3. It shall be the duty of the township clerk or chairman of the board of election inspectors, upon receipt of the notice herein required, to give notice in writing under his hand of the time and place when such question will be submitted to the electors. Such township clerk or chairman of the board of election inspectors shall cause such notice to be posted up in at least 5 of the most public places in the said township or ward, at least 10 days before said election.

History: 1911, Act 28, Eff. Aug. 1, 1911;—CL 1915, 2308;—CL 1929, 2355;—CL 1948, 141.73.

141.74 Ballots; form, distribution, counting; authorizing vote, effect.

Sec. 4. It shall be the duty of the board of election commissioners of such county to prepare the necessary ballots for use of the electors in voting upon the question referred to in this act. The said question shall be printed upon a ballot separate and distinct from all other ballots, which ballot shall be in the following form:

Instruction to Voter.

Mark a cross in the square to the left of the word "Yes" or "No."

To authorize the board of supervisors to borrow $...................

[ ] Yes.

To authorize the board of supervisors to borrow $...................

[ ] No.

There shall be inserted in the above blank the amount set forth in the resolution of the board of supervisors. The ballots so prepared shall be distributed by the board of election commissioners within the same time and in the same manner that ballots are distributed prior to a general election. All ballots upon which an elector marks a cross in the square to the left of the word “Yes” shall be counted in favor of raising the amount stated in the resolution of the board of supervisors, and all ballots upon which an elector marks a cross in the square to the left of the word “No” shall be counted against the question of raising the amount set forth in the resolution of the board of supervisors. All ballots cast at any election on such question, shall be received, counted, canvassed and returned in the manner now governing for the election of county officers. If at any such election a majority of the electors voting on such question shall decide in favor of authorizing the board of supervisors to raise the amount set forth in said resolution, such amount may be borrowed in the same manner as the amounts referred to in section 1 of this act may be borrowed in the first instance.

History: 1911, Act 28, Eff. Aug. 1, 1911;—CL 1915, 2309;—CL 1929, 2356;—CL 1948, 141.74.

FIRE, FLOOD, OR OTHER CALAMITY
Act 12 of 1932 (1st Ex. Sess.)

141.81-141.83 Repealed. 1962, Act 81, Eff. Mar. 28, 1963.

PROHIBITED TAXES BY CITIES AND VILLAGES
Act 243 of 1964

AN ACT to prohibit the imposition, levy or collection of taxes other than ad valorem property taxes by cities and villages.

History: 1964, Act 243, Eff. Aug. 28, 1964.

The People of the State of Michigan enact:

141.91 Cities and villages, prohibited taxes.

Sec. 1. Except as otherwise provided by law and notwithstanding any provision of its charter, a city or village shall not impose, levy or collect a tax, other than an ad valorem property tax, on any subject of taxation, unless the tax was being imposed by the city or village on January 1, 1964.

History: 1964, Act 243, Eff. Aug. 28, 1964.

THE REVENUE BOND ACT OF 1933
Act 94 of 1933

AN ACT to authorize public corporations to purchase, acquire, construct, improve, enlarge, extend, or repair public improvements within or without their corporate limits, and to own, operate, and maintain the same; to authorize the condemnation of property for such public improvements; to provide for the imposition and collection of charges, fees, rentals, or rates for the services, facilities, and commodities furnished by such public improvements; to provide for the issuance of bonds and refunding bonds payable from the revenues of public improvements; to provide for a pledge by public corporations of their full faith and credit and the levy of taxes without limitation as to rate or amount to the extent necessary for the payment of the bonds, or for advancing money from general funds for payment of bonds; to provide for payment, retirement, and security of such bonds; to provide for the imposition of special assessment bonds for the purpose of refunding outstanding revenue bonds; to prescribe the powers and duties of the department of treasury and of the municipal finance commission or its successor agency relative to such bonds and relative to private activity bonds issued by a state or local governmental entity; to provide for other matters in respect to such public improvements and bonds and to validate action taken and bonds issued; and to prescribe penalties and provide remedies.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1935, Act 66, Imd. Eff. May 17, 1935;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1959, Act 78, Imd. Eff. June 29, 1959;—Am. 1969, Act 87, Imd. Eff. July 24, 1969;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974;—Am. 1983, Act 76, Imd. Eff. June 6, 1983;—Am. 1987, Act 263, Imd. Eff. Dec. 28, 1987;—Am. 1998, Act 196, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

141.101 Short title; revenue bond act of 1933.

Sec. 1. This act shall be known and may be cited as “the revenue bond act of 1933.”

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1935, Act 66, Imd. Eff. May 17, 1935;—Am. 1939, Act 2, Imd. Eff. Feb. 15, 1939;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.101.

141.102 Construction of act.

Sec. 2. This act shall be construed as cumulative authority for the exercise of the powers herein granted and shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intention of this act to create full and complete additional and alternate methods for the exercise of such powers. The powers conferred by this act shall not be affected or limited by any other statute or by any charter, except as otherwise herein provided. The functions, powers and duties of the state commissioner of health in connection with any such public improvement shall remain unaffected by this act.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.102.

141.103 Definitions.

Sec. 3. As used in this act:

(a) “Public corporation” means a county, city, village, township, school district, port district, or metropolitan district of the state or a combination of these if authorized by law to act jointly; an authority created by or under an act of the legislature; or a municipal health facilities corporation or subsidiary municipal health facilities corporation incorporated as provided in the municipal health facilities corporations act, 1987 PA 230, MCL 331.1101 to 331.1507.

(b) “Public improvements” means only the following improvements: housing facilities; garbage disposal plants; rubbish disposal plants; incinerators; transportation systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; sewage disposal systems, including sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes; storm water systems, including storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of storm water; water supply systems, including plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water; utility systems for supplying light, heat, or power, including plants, works, instrumentalities, and properties used or useful in connection with those systems; approved cable television systems, approved cable communication systems, or telephone systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; automobile parking facilities, including within or as part of the facilities areas or buildings that may be rented or leased to private enterprises serving the public; yacht basins; harbors; docks; wharves; terminal facilities; elevated highways; bridges over, tunnels under, and ferries across bodies of water; community buildings; public wholesale markets for farm and food products; stadiums; convention halls; auditoriums; dormitories; hospitals and other health care facilities; buildings devoted to public use; museums; parks; recreational facilities; reforestation projects; aeronautical facilities; and marine railways; or any right or interest in or equipment for these improvements. The term "public improvement" means the whole or a part of any of these improvements or of any combination of these improvements or any interest or participation in these improvements, as determined by the governing body. The definition contained in this subdivision does not broaden or enlarge the extent of a particular public improvement made by a public corporation.

(c) "Borrower" means a public corporation exercising the power to issue bonds as provided in this act.

(d) "Governing body" means for a county, the board of commissioners; for a city, the body having legislative powers; for a village, the body having legislative powers; for a township, the township board; for a school district, the board of education; for a port district, the port commission; for a metropolitan district, the legislative body of the district; for a municipal health facilities corporation, the board of trustees; for a nonprofit subsidiary municipal health facilities corporation, the nonprofit subsidiary board; and for an authority, the body in which is lodged general governing powers. If the charter of a public corporation or applicable law provides that a separate board has general management over a public improvement, "governing body" means, with respect to that public improvement, the separate board, subject to review by the legislative body of the public corporation as the charter or law may provide. Unless the charter or law specifically provides otherwise, the separate board shall adopt the bond authorizing ordinance, but shall not pledge full faith and credit.

(e) "Rates" means the charges, fees, rentals, and rates that may be fixed and imposed for the services, facilities, and commodities furnished by a public improvement.

(f) "Revenues" means the income derived from the rates charged for the services, facilities, and commodities furnished by a public improvement. Revenues include, to the extent provided in the authorizing ordinance, earnings on investment of funds of the public improvement and other revenues derived from or pledged to operation of the public improvement.

(g) "Net revenues" means the revenues of a public improvement remaining after deducting the reasonable expenses of administration, operation, and maintenance of the public improvement.

(h) "Project cost" or "costs" means the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a public improvement, including any engineering, architectural, legal, accounting, financial, and other expenses incident to the public improvement. Project costs include interest on the bonds, and other obligations of the borrower issued to pay project costs, during the period of construction and until full revenues are developed. Project costs include a reserve or addition to a reserve for payment of principal and interest on the bonds and the amount required for operation and maintenance until sufficient revenues have developed.

(i) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of the governing body of a public corporation.

(j) "Approved cable television system" or "approved cable communication system" means a cable television or communication system to which 1 of the following applies:

(*i*) A municipality acquires or establishes the system either before January 1, 1987 or before a system is established in that municipality by a private person.

(*ii*) A municipality acquires or establishes the system after a system is established in that municipality by a private person and after approval by a majority of the electors in the affected area of that municipality voting on the question of the sale of revenue bonds to finance the acquisition or establishment of the municipal system.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1943, Act 219, Imd. Eff. Apr. 20, 1943;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.103;—Am. 1949, Act 244, Eff. Sept. 23, 1949;—Am. 1952, Act 152, Imd. Eff. Apr. 24, 1952;—Am. 1954, Act 136, Eff. Aug. 13, 1954;—Am. 1956, Act 134, Imd. Eff. Apr. 13, 1956;—Am. 1966, Act 294, Imd. Eff. July 14, 1966;—Am. 1968, Act 253, Imd. Eff. July 1, 1968;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1986, Act 40, Imd. Eff. Mar. 17, 1986;—Am. 1986, Act 246, Imd. Eff. Dec. 4, 1986;—Am. 1987, Act 229, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 501, Imd. Eff. Dec. 29, 1988;—Am. 1992, Act 305, Imd. Eff. Dec. 21, 1992;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.104 Municipal public improvements; limitations; bonds; acquiring utility for supplying light, heat or power; referendum; powers exercised.

Sec. 4. Any public corporation is authorized to purchase, acquire, construct, improve, enlarge, extend or repair 1 or more public improvements and to own, operate and maintain the same, within or without its corporate limits, and to furnish the services, facilities and commodities of any such public improvement to users within or without its corporate limits. The exercise by any public corporation of such powers outside its corporate limits shall be subject to the legal rights of the political subdivision within which such powers are to be exercised and shall also be subject to any and all constitutional and statutory provisions relating thereto. The authority herein granted shall be further limited as follows:

(a) No public corporation shall establish warehouses for the purpose of storing or dispensing alcoholic beverages.

(b) School districts shall be limited to such public improvements as are within the scope of their powers under other statutory provisions.

(c) Port districts shall be limited to such public improvements as are within the scope of their powers under acts creating the same.

(e) No public corporation may acquire a utility for the supplying of light, heat or power unless such proposition shall have first received the affirmative vote of 3/5 of the electors of such public corporation voting thereon at a regular or special municipal election.

The powers in this act granted may be exercised notwithstanding that no bonds are issued hereunder.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.104;—Am. 1954, Act 136, Eff. Aug. 13, 1954;—Am. 1966, Act 179, Imd. Eff. July 1, 1966.

141.105 Estimate of cost and period of usefulness.

Sec. 5. Whenever the governing body of any public corporation shall determine to purchase, acquire, construct, improve, enlarge, extend and/or repair any public improvement and to issue bonds under this act, it shall first cause an estimate to be made of the cost and the period of usefulness thereof, and the fact that such estimate has been made and the amount and period of time thereof shall appear in the ordinance authorizing and providing for the issuance of the bonds.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1935, Act 66, Imd. Eff. May 17, 1935;—Am. 1939, Act 2, Imd. Eff. Feb. 15, 1939;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.105;—Am. 1949, Act 244, Eff. Sept. 23, 1949.

141.106 Ordinances; adoption; purpose; approval or disapproval; veto; effective date; referendum; record; authentication; publication.

Sec. 6. The governing body of a public corporation by the affirmative vote of a majority of its elected members, at the meeting at which it is introduced or any subsequent meeting, may adopt an ordinance relating to the exercise of the powers granted in this act and to other matters necessary or desirable to effectuate this act, to provide for the adequate operation of a public improvement established under this act, and to insure the security of bonds issued. The adoption shall be subject to applicable statutory or charter provisions in respect to the approval or disapproval of the chief executive or other officer of the public corporation and the adoption of the ordinance over his or her veto, except in case of the adoption of an ordinance under this act by the board of commissioners of a county, it shall not be necessary to submit the ordinance to the governor for approval. An ordinance adopted under this act shall become effective upon its adoption unless otherwise specified in the ordinance. It shall not be subject to a referendum vote of the electors of the public corporation except as provided in section 33. The ordinance shall be recorded in the minutes of the meeting of the governing body of the public corporation as soon as practicable after its passage. The record shall be authenticated by the signatures of the presiding officer and the clerk or other recording officer of the governing body. The ordinance shall be published once in a newspaper of general circulation within the boundaries of the public corporation. The publication of the ordinance as a part of the minutes of the meeting at which it was adopted, shall be considered a publication in conformity with this act. Except as otherwise provided in this act, this section shall constitute the sole requirements in respect to the adoption and publication of an ordinance and shall not be limited by a charter or statutory provisions.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1943, Act 219, Imd. Eff. Apr. 20, 1943;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.106;—Am. 1978, Act 216, Imd. Eff. June 5, 1978.

141.107 Bonds; issuance; form; term; interest; exclusion from net bonded indebtedness; registration; pledge of funds; statutory first lien.

Sec. 7. (1) For the purpose of defraying the whole or a part of project costs, a public corporation may borrow money and issue its negotiable bonds. The bonds shall not be issued unless and until authorized by an ordinance, which shall set forth a brief description of the contemplated project, the estimated cost of the project, and the amount, maximum rate of interest, and time of payment of the bonds. The bonds shall be serial bonds or term bonds, or a combination of serial and term bonds, and shall be payable semiannually or annually by maturity of serial bonds or maturity or required redemption of term bonds. The last annual principal installment shall be not longer than the estimated period of usefulness of the public improvement for which the bond is issued, but the last installment shall not be more than 40 years from the date of the bond. The bonds shall bear interest, payable as provided in the authorizing ordinance, except that the first interest installment shall be payable not later than 10 months following the delivery date of the bonds. The bonds and coupons shall be substantially in the form provided in the authorizing ordinance and shall be executed in the manner prescribed in the bond, which may be by facsimile signature or signatures. The bonds and the interest on the bonds shall be made payable in lawful money of the United States, and shall be exempt from taxation by this state or by any taxing authority within this state. The public corporation may provide that the redemption of term bonds may be satisfied in whole or in part by the purchase and cancellation of term bonds otherwise required to be redeemed. As used in this subsection, “annual principal installment” means a maturity of serial bonds, an amount of term bonds required to be redeemed in that year, or a maturity of term bonds less amounts previously required to be redeemed.

(2) The principal of and interest on the bonds shall be payable, except as provided in this act, solely from the net revenues derived from the operation of the public improvement purchased, acquired, constructed, improved, enlarged, extended, or repaired from the proceeds of the bonds, as shall be pledged to the bonds in the authorizing ordinance, which may include if the ordinance so provides, net revenues derived by reason of future improvements, enlargements, extensions, or repairs to the improvement, and payments made to the public corporation issuing the bonds by any other governmental entity pursuant to another law of this state or the United States for payment of principal and interest on the bonds, even though the payments are made from or include grants or other funds provided by this state or the United States or the proceeds of taxes levied on taxable property as provided by other law.

(3) As additional security for the payment of bonds that are used to finance the local share of projects that receive more than 25% of financing from federal or state grants or that are being initially purchased, in whole or in part, by the Michigan municipal bond authority created under the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, or if specifically authorized by another law pertaining to the public improvements for which bonds are to be issued under this act, a public corporation, by majority vote of the elected members of its governing body, may include as a part of the ordinance authorizing the issuance of the bonds a pledge of its full faith and credit for payment of the principal of an interest on the bonds. For bonds issued for airports or airport improvements under the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208, a public corporation, by majority vote of the elected members of its governing body, may agree that if funds pledged for payment of bonds are not sufficient to pay principal and interest on the bonds as the bonds become due, the public corporation shall advance sufficient funds out of its general funds for the payment if the proceeds of the bonds are used exclusively within the territorial limits of the county in which the political corporation is located. If a pledge is made, and the net revenues primarily pledged to the payment are insufficient to make a payment, the public corporation shall be obligated to pay the bonds and interest on the bonds in the same manner and to the same extent as other general obligation bonds of the public corporation, including the levy, when necessary, of a tax on all taxable property in the public corporation without limitation as to rate or amount, in addition to all other taxes that the public corporation is authorized to levy, but not exceeding the rate or amount necessary to make the payment. If a public corporation makes payment from taxes or general funds pursuant to a full faith and credit pledge or agreement to advance, it shall be reimbursed from net revenues subsequently received by the public improvement for which the bonds are issued that are not otherwise pledged or encumbered. A bond or coupon issued under this act shall not be general obligation or constitute an indebtedness of the borrower unless its full faith and credit are pledged. Unless a public corporation pledges its full faith and credit for the payment of bonds issued pursuant to this act, or unless otherwise exempt, the amount of the bonds shall not be included in computing the net bonded indebtedness of the public corporation for the purposes of debt limitations imposed by any statutory or charter provisions. Bonds may be made registerable as to principal, or principal and interest, under terms and conditions determined by the governing body of the borrower.

(4) The governing body in the ordinance authorizing the bonds or in an agreement entered into under section 7a(1)(a) may pledge any funds established by the ordinance or agreement for the payment of the bonds or other obligations of the public corporation under the agreement and create a statutory first lien in favor of the holders of the bonds or a party subject to the agreement.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1935, Act 66, Imd. Eff. May 17, 1935;—Am. 1939, Act 2, Imd. Eff. Feb. 15, 1939;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.107;—Am. 1949, Act 244, Eff. Sept. 23, 1949;—Am. 1960, Act 24, Eff. Aug. 17, 1960;—Am. 1969, Act 87, Imd. Eff. July 24, 1969;—Am. 1973, Act 40, Imd. Eff. June 29, 1973;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1985, Act 26, Imd. Eff. May 31, 1985;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.107a Powers of public corporation in determining to issue bonds; terms of payment; interest; sale or remarketing; tender of bonds by holders; determining aggregate authorized amount of bonds outstanding; remarketing or resale of tendered bonds or incurrence of obligation of public corporation; provisions of section construed.

Sec. 7a. (1) A public corporation in determining to issue bonds, including refunding bonds, may do the following:

(a) As additional security to assure timely payment of the bonds, authorize and enter into an insurance contract, agreement for lines of credit, letter of credit, commitment to purchase obligations, remarketing agreement, reimbursement agreement, tender agreement, and any other transaction to provide security to assure timely payment of any bond, and may pledge and create a statutory lien on 1 or more of the following for timely payment of the bonds or payment of any obligations of the public corporation under any of the foregoing:

(*i*) Proceeds of additional security provided to assure timely payment of the bonds.

(*ii*) Proceeds of bonds.

(*iii*) Earnings on proceeds of bonds or other funds held for payment of bonds.

(*iv*) Revenues.

(b) If the bonds are additionally secured as provided in subsection (1)(a), authorize, from the proceeds of the bonds or other available funds, payment of the cost of issuing the bonds, which may include, but is not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, tender agreements, or purchase or sales agreements or commitments, or other agreements to provide security to assure timely payment of bonds.

(c) Authorize or provide for an officer of the public corporation, but only within limitations which shall be contained in the ordinance of the governing body authorizing the bonds, to do 1 or more of the following:

(*i*) Sell and deliver and receive payment for bonds.

(*ii*) Refund bonds by the delivery of new bonds, whether or not the bonds to be refunded have matured or are subject to redemption prior to maturity on the date of delivery of the refunding bonds.

(*iii*) Buy and hold without cancellation or sell bonds so issued.

(*iv*) Deliver bonds partly to refund bonds and partly for any other authorized purpose.

(*v*) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, optional or mandatory redemption or tender rights, obligations to be exercised by the public corporation or the holder of the bond, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(2) If the bonds are additionally secured as provided in subsection (1)(a) and notwithstanding other provisions of this act, the bonds, including an obligation of the public corporation to a provider of additional security under subsection (1)(a) relating to that additional security, may be made payable on demand or prior to maturity at the option of the public corporation or the holder, or made subject to a tender, right, or obligation, at the time and in the manner determined by the governing body in the ordinance authorizing the bonds. If payable on demand or prior to maturity at the option of the public corporation or the holder, or if subject to a tender, right, or obligation, the bonds, including an obligation of the public corporation to a provider of additional security under subsection (1)(a) relating to that additional security, may bear no rate of interest or bear interest at a rate or rates which may be variable and which shall not be subject to the limitations provided in section 12, may be in a form with or without interest coupons, and may be sold at discount which shall not be subject to the limitation on discount provided in section 12 all as provided by the governing body in the ordinance authorizing the bonds.

(3) Bonds which are additionally secured under subsection (1)(a), and which are tendered by the holder or considered tendered as provided in this subsection to the public corporation, to the trustee appointed pursuant to section 38, or to any other entity appointed pursuant to an agreement authorized by subsection (1)(a), shall not be redeemed by an optional or mandatory tender, but may be sold or remarketed by the public corporation, by the trustee appointed pursuant to section 38, or by any other entity appointed pursuant to an agreement authorized by subsection (1)(a) without the sale or remarketing being a reissuance or refunding. If so provided by the governing body in the ordinance authorizing the bonds, bonds which are additionally secured under the provisions of subsection (1)(a) may contain provisions under which the holders of the bonds may be considered to have tendered the bonds pursuant to the ordinance and the bonds. For purposes of determining the aggregate authorized amount of bonds outstanding, bonds which are considered tendered are no longer outstanding and may be replaced without redemption by bonds which may be sold or remarketed as provided in this subsection without the sale or remarketing being a reissuance or refunding.

(4) The remarketing or resale of tendered bonds or the incurrence of an obligation of the public corporation

pursuant to an agreement providing additional security under subsection (1)(a) is not subject to referendum by the qualified electors of the public corporation pursuant to section 33 and may be sold or remarketed in the case of tendered bonds, or incurred in the case of an obligation pursuant to an agreement providing additional security under section 7a(1)(a), at public or private sale as determined by the governing body in the ordinance authorizing the bonds. The remarketing or resale of tendered bonds is not subject to the prior approval of the department of treasury as provided in this act if the original issue of bonds to which the tendered bonds or agreement relates was approved or excepted from approval by the department of treasury.

(5) The provisions of this section specify general authority under this act, may be exercised notwithstanding a charter provision to the contrary, and may be included in bonds issued before the effective date of this section which bonds are ratified and validated by this section.

(6) The amendatory act which added this section shall not be construed to expand or diminish the authority of a public corporation to pledge its full faith and credit without a referendum of the qualified electors.

History: Add. 1985, Act 26, Imd. Eff. May 31, 1985.

141.108 Lien on revenue in favor of bondholders.

Sec. 8. There shall be created in the authorizing ordinance a lien, by this act made a statutory lien, upon the net revenues pledged to the payment of the principal of and interest upon such bonds, to and in favor of the holders of such bonds and the interest coupons pertaining thereto, and each of such holders, which liens shall be a first lien upon such net revenues, except where there exists a prior lien or liens then such new lien shall be subject thereto.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1935, Act 66, Imd. Eff. May 17, 1935;—Am. 1939, Act 2, Imd. Eff. Feb. 15, 1939;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.108.

141.109 Statutory lien on net revenues; duration; enforcement.

Sec. 9. The net revenues which are pledged shall be and remain subject to the statutory lien until the payment in full of the principal of and interest upon the bonds unless the authorizing ordinance provides for earlier discharge of the lien by substitution of other security. The holder of the bonds, representing in the aggregate not less than 20% of the entire issue then outstanding, may protect and enforce the statutory lien and enforce and compel the performance of all duties of the officials of the borrower, including the fixing of sufficient rates, the collection of revenues, the proper segregation of revenues, and the proper application of the revenues. The statutory lien shall not be construed to give a holder or owner of a bond or coupon authority to compel the sale of the public improvement, the revenues of which are pledged to the improvement.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.109;—Am. 1978, Act 216, Imd. Eff. June 5, 1978.

141.110 Receiverships for public improvements.

Sec. 10. If there be any default in the payment of the principal of or interest upon any of said bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate on behalf of the borrower, under the direction of said court, any public improvement the revenues of which are pledged to the payment of such principal and interest; and by and with the approval of said court, to fix and charge rates and collect revenues sufficient to provide for the payment of any bonds or other obligations outstanding against the revenues of said public improvement and for the payment of the expenses of operating and maintaining the same and to apply the income and revenues of said public improvement in conformity with this act and the ordinance providing for the issuance of such bonds and in accordance with such orders as the court shall make.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.110.

141.111 Bonds; application of other laws and charters.

Sec. 11. The bonds authorized hereunder shall not be subject to any limitations or provisions contained in the laws of the state of Michigan, pertaining to public corporations or in the charters of public corporations, as now in force or hereafter amended, other than as provided for in this act.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.111.

141.112 Bonds; discount; sale price; interest; competitive or negotiated sale; notice; publication.

Sec. 12. (1) Bonds issued under this act may be sold at a discount but may not be sold at a price that would make the interest cost on the money borrowed after deducting any premium or adding any discount exceed 10% per annum or the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL

141.2101 to 141.2821, whichever is greater, and may bear a stated rate of interest or no rate of interest.

(2) A public corporation may sell bonds at a competitive sale or a negotiated sale as determined in the authorizing ordinance. If a public corporation determines to sell a bond at a negotiated sale, the governing body shall expressly state the method and reasons for choosing a negotiated sale instead of a competitive sale in the resolution or ordinance authorizing the issuance or sale of the bonds.

(3) Bonds sold at a competitive sale shall not be sold until notice by publication at least 7 days before the sale in a publication printed in the English language and circulated in this state that carries as a part of its regular service notices of the sale of municipal bonds.

(4) A public corporation shall award a bond sold at a competitive sale to the bidder whose bid meets all specifications and requirements and results in the lowest interest cost to the public corporation, unless all bids are rejected.

(5) A public corporation may accept bids for the purchase of a bond made in person, by mail, by facsimile, by electronic means, or by any other means authorized by the public corporation.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1941, Act 210, Imd. Eff. June 16, 1941;—Am. 1943, Act 219, Imd. Eff. Apr. 20, 1943;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.112;—Am. 1949, Act 244, Eff. Sept. 23, 1949;—Am. 1968, Act 68, Imd. Eff. May 28, 1968;—Am. 1973, Act 40, Imd. Eff. June 29, 1973;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1982, Act 485, Imd. Eff. Dec. 30, 1982;—Am. 1983, Act 76, Imd. Eff. June 6, 1983;—Am. 1985, Act 26, Imd. Eff. May 31, 1985;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.112a Bonds subject to revised municipal finance act.

Sec. 12a. (1) Bonds issued under this act for which a municipality pledges its full faith and credit are also subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except for part VI and section 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, and MCL 141.2503.

(2) For bonds issued under this act, the first principal amount maturity date or mandatory redemption date shall be not later than 5 years after the date of issuance and some principal amount shall mature or be subject to mandatory redemption in each subsequent year of the term of the bond.

(3) As used in this section, “municipality” means that term as defined in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) Except as otherwise provided in this act, bonds subject to this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 2002, Act 465, Imd. Eff. June 21, 2002.

141.112b Bulletins; issuance by department of treasury.

Sec. 12b. The department of treasury is authorized to issue bulletins as necessary to carry out the purposes of this act. A bulletin issued under this section shall include a statement of the department's specific statutory authority for any substantive requirement contained within the bulletin.

History: Add. 2002, Act 465, Imd. Eff. June 21, 2002.

141.113 Bonds; statement on face of bond or on face of interest coupon.

Sec. 13. (1) There shall be plainly stated on the face of each bond: that it is issued under this act; that it is a self-liquidating bond and is not a general obligation of the borrower, unless the full faith and credit of the issuer are pledged; that it does not constitute an indebtedness of the borrower within any constitutional, statutory, or charter limitation; that the principal of the bond and the interest on the bond are payable solely from revenues, which shall be identified by reference to the public improvement, or part of the public improvement, from which the revenues are to be derived; and that the payment of the principal and interest are secured by a statutory lien on the revenues, the priority of which lien shall be stated.

(2) Unless the full faith and credit of the borrower are pledged, there shall be plainly stated on the face of each interest coupon language substantially as follows: This coupon is not a general obligation of the borrower and is payable solely from certain revenues as set forth in the bond to which this coupon pertains.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.113;—Am. 1969, Act 87, Imd. Eff. July 24, 1969;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974;—Am. 1978, Act 216, Imd. Eff. June 5, 1978.

141.114 Bonds; qualities of negotiable instruments.

Sec. 14. The bonds shall have all the qualities of negotiable instruments as provided for in the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—CL 1948, 141.114;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 2000, Act 350, Eff. Mar. 28, 2001.

141.115 Bonds; deposit and investment of sale proceeds.

Sec. 15. The governing body shall require that the proceeds of the sale of bonds issued under this act be deposited in an account or accounts separate from other money of the borrower in 1 or more banks, savings and loan associations, or credit unions, each having unimpaired capital and surplus amounting to at least $2,000,000.00 or that are insured by the federal deposit insurance corporation, the federal savings and loan insurance corporation, or the national credit union share insurance fund. However, the proceeds may be invested, in whole or in part, in the manner provided in section 24 for other funds, if the investment is authorized in the ordinance or approved by the department of treasury.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.115;—Am. 1951, Act 63, Eff. Sept. 28, 1951;—Am. 1983, Act 76, Imd. Eff. June 6, 1983;—Am. 1988, Act 228, Eff. Oct. 1, 1988.

141.116 Bonds; use of sale proceeds; cancellation of bonds acquired by purchase; payment of capitalized interest.

Sec. 16. Money received from the sale of bonds shall be used solely for the payment of project costs. An unexpended balance of the proceeds of the sale of any bonds remaining after the completion of the project for which issued, may be used for the improvement, enlargement, or extension of the public improvement, if the use is approved by the department of treasury. Any remaining balance shall be paid immediately into the bond and interest redemption deposit account for the bonds, and the money shall be used only for meeting bond reserve requirements or for the redemption or purchase, at not more than the fair market value, of outstanding bonds of the issue from which the proceeds were derived. Bonds acquired by purchase shall be canceled and shall not be reissued. Each ordinance shall state the period for which interest is to be capitalized, and the amount of reserves to be funded from the bonds. Upon receipt of the proceeds of the bonds, there shall be set aside, in the bond and interest redemption deposit account, the amount of interest that will accrue during the period at the interest rate specified in the bonds and the amount required to be set aside in the bond and interest redemption account. Money set aside shall be used solely for the payment of the capitalized interest or to satisfy bond reserve requirements.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.116;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1983, Act 76, Imd. Eff. June 6, 1983;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.117 Bonds; validity of signatures.

Sec. 17. In case any of the officers whose signatures or counter-signatures appear on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures or counter-signatures shall nevertheless be valid and sufficient for all purposes the same as if they had remained in office until such delivery.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—CL 1948, 141.117.

141.118 Charges for services; providing medical care without charge or at reduced rates.

Sec. 18. (1) Except as provided in subsection (2), free service shall not be furnished by a public improvement to a person, firm, or corporation, public or private, or to a public agency or instrumentality. The reasonable cost and value of any service rendered to a public corporation, including the borrower, by a public improvement shall be charged against the public corporation and shall be paid for as the service accrues from the public corporation's current funds or from the proceeds of taxes which the public corporation, within constitutional limitations, is hereby authorized and required to levy in an amount sufficient for that purpose, or both, and those charges, when so paid, shall be accounted for in the same manner as other revenues of the public improvement.

(2) A public improvement that is a hospital or other health care facility may provide medical care to the indigent without charge or at reduced rates and may provide medical care without charge to comply with conditions for the receipt of a grant or contribution from a public or private donor.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.118;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974;—Am. 1987, Act 229, Imd. Eff. Dec. 28, 1987.

141.119 Additional bonds.

Sec. 19. (1) A borrower issuing bonds for any public improvement pursuant to this act, at the time of the authorization of the bonds, may provide in the authorizing ordinance for the issuance of additional bonds of equal standing for its completion in the event the bonds first authorized shall prove to be insufficient therefor, or for its subsequent enlargement, extension, improvement, or repair, or to refund part or all of 1 or more outstanding issues, or for any of these purposes, which additional bonds may be issued and be negotiated from time to time as the proceeds therefrom may be necessary for that purpose. The bonds, when sold, shall have equal standing with those issued in the first instance. The additional bonds may be issued in separate series from the original bonds, with different dates of issuance, and with changes in the form thereof which are consistent with that equality of standing.

(2) The provisions of section 7 providing for annual installments, the amounts of the installments, and the due date of the first installment shall not be controlling as to each additional series whether the additional series is of equal or subordinate standing. Instead, section 7 shall be applied to the combined annual principal installments and interest at actual rates on outstanding bonds and at the maximum authorized rate on the additional series. Additional bonds of equal standing shall not be issued unless authorized as provided in this section.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1943, Act 219, Imd. Eff. Apr. 20, 1943;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.119;—Am. 1969, Act 87, Imd. Eff. July 24, 1969;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974;—Am. 1978, Act 216, Imd. Eff. June 5, 1978.

141.120 Revenue refunding bonds.

Sec. 20. (1) If a borrower has outstanding any bonds issued under this act, it may issue and negotiate new bonds under this act for the purpose of providing for the retirement of those outstanding bonds, in whole or in part. The new bonds shall be designated "revenue refunding bonds". Except as otherwise provided in the refunding ordinance, revenue refunding bonds shall be secured to the same extent and shall have the same source of payment as the bonds to be refunded, or may be payable from earnings on investments held in trust to pay refunded bonds for the period of time specified in the ordinance authorizing the bonds or from any other source provided in the ordinance authorizing the refunding bonds. The revenue refunding bonds may be issued to include the amount of any premium to be paid upon the calling of the bonds to be refunded, interest to the maturity or the earliest or any subsequent redemption date of the bonds to be refunded, and the cost of issuing the refunding bonds, or if the bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded. This section shall not be construed as providing for the redemption of noncallable unmatured bonds without the consent of the holder or holders of the bonds.

(2) The borrower may issue bonds partly to refund outstanding bonds, which portion shall be considered a revenue refunding bond for purposes of this section, and partly for any other purpose contemplated by this act but which would not include loans for private mortgage purposes.

(3) Bonds issued to refund outstanding bonds and bonds issued partly to refund outstanding bonds and partly for any other purposes may be issued in a principal amount and may bear an interest rate that is greater than, the same as, or lower than the principal amount and interest rate of the bonds to be refunded. The refunding bonds and the bonds issued pursuant to subsection (2) may be sold as provided in section 12 or, to the extent the bond is issued to refund an outstanding bond, may be exchanged for the obligations to be refunded by the obligations, and if sold, the proceeds attributable to the purpose of refunding an outstanding obligation shall be deposited in a bank, trust company, savings and loan association, or credit union in a special trust account or escrow account to be used only for the payment at maturity or redemption or purchase of the outstanding bonds. If refunding bonds or bonds issued pursuant to subsection (2) are to be issued and sold for the sole or partial purpose of refunding unmatured noncallable bonds, the latter shall be surrendered and canceled at the time of the delivery to the purchaser of the refunding bonds, or the proceeds of the bonds attributable to the purpose of refunding an outstanding obligation and sufficient other funds shall be deposited in trust to pay principal and interest to maturity or principal, interest, and redemption premium to the earliest or any subsequent redemption date together with irrevocable instructions to the paying agent to call the bonds for redemption on that date. The borrower may deposit in trust direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States that do not permit redemption at the option of the issuer and the principal and interest on which when due, without reinvestment, provide funds sufficient to pay principal, interest, and call premium, when due, on the bonds being refunded.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1941, Act 210, Imd. Eff. June 16, 1941;—Am. 1943, Act 219, Imd. Eff. Apr. 20, 1943;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.120;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1983, Act 76, Imd. Eff. June 6, 1983;—Am. 1988, Act 228, Eff. Oct. 1, 1988.

141.120a Combined public improvements; bonds; revenues pledged; retirement.

Sec. 20a. Any public corporation may determine to operate 2 or more public improvements as a combined public improvement and in such case it may pledge the revenues of such combined public improvement to the payment of revenue bonds issued to defray the cost of purchasing, acquiring, constructing, improving, enlarging, extending and/or repairing the whole or any part of such combined public improvement. Whenever any public corporation shall determine to issue any bonds under this act and pledge thereto the revenues of a public improvement or a combined public improvement, if there shall be outstanding bonds pledging the revenues of such public improvement or any unit or units of such combined public improvement, then such new bonds may be issued subject to such prior pledge, or may include an amount sufficient to retire such outstanding bonds, and to the extent that they are issued for such retirement, they shall be subject to the provisions of section 20 of this act, except that in lieu of being designated as refunding bonds, such new bonds shall recite the extent to which they refund outstanding obligations.

History: Add. 1943, Act 219, Imd. Eff. Apr. 20, 1943;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.120a.

141.120b Issuance of revenue bonds to retire outstanding bonds for public improvements; revenue refunding bonds; noncallable unmatured bonds.

Sec. 20b. If a township, city, or village has outstanding bonds issued for acquiring or constructing public improvements, whether the bonds are payable from revenues, special assessments, or taxes, it may issue revenue bonds under this act for the purpose of retiring the outstanding bonds. If a city or village has issued refunding bonds, including in a single series, or bonds for 1 or more of the public improvements together with bonds for other purposes, the governing body may designate by number and amount the refunding bonds of the series that represent the original bonds issued for the public improvements and may refund the bonds designated by the issuance of revenue refunding bonds under this act. The revenue refunding bonds shall be valid notwithstanding a defect in the proceedings for the issuance of the bonds refunded or for the acquisition of the public improvement if, at the time of refunding, the public improvement can be acquired and revenue bonds can be issued for the improvement under this act. If this act applies to the issuance, the new bonds shall be authorized in the same manner, shall be subject to the same conditions, shall be secured to the same extent, and shall have the same source of payment as other bonds issued under this act for like improvements. The bonds may include the costs of issuing the bonds and the amount of the premium to be paid on the calling of the outstanding bonds, or if the bonds are not callable, the premium necessary to be paid to secure the surrender of the bonds. If revenue refunding bonds are to be issued, the amount due upon a bond to be refunded may be reduced by consent of the holder of the bond, and refunding bonds may be issued for the reduced amount. This section shall not be construed as providing for the redemption of noncallable unmatured bonds without the consent of the holder of the bond. The bonds may be exchanged for the outstanding bonds or may be sold as provided in section 12. If sold, the proceeds shall be deposited in a bank, trust company, savings and loan association, or credit union in a special trust account or escrow account to be used only for the redemption or purchase of the outstanding bonds. If refunding bonds are to be issued and sold for the purpose of refunding noncallable unmatured bonds, the noncallable unmatured bonds shall be surrendered and canceled at the time of the delivery to the purchaser of the refunding bonds, or sufficient funds deposited in trust to pay principal and interest to maturity on noncallable bonds and principal, interest, and redemption premium to the earliest redemption date on callable bonds together with irrevocable instructions to the paying agent to call the bonds for redemption on that date. If the ordinance authorizing the bonds to be refunded permits, the borrower may deposit in trust direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States that do not permit redemption at the option of the issuer and the principal and interest on which when due, without reinvestment, provide funds sufficient to pay principal, interest, and call premium, when due, on the bonds being refunded.

History: Add. 1943, Act 219, Imd. Eff. Apr. 20, 1943;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.120b;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1988, Act 228, Eff. Oct. 1, 1988.

141.120c Parking revenue bonds; special assessments on benefited properties.

Sec. 20c. When a borrower has outstanding any parking revenue bonds issued under the provisions of this act, it may thereafter levy special assessments against properties specially benefited by the parking facilities originally financed by the bonds, but no assessment shall be made at large, and may issue special assessment bonds therefor in anticipation of the payment of the special assessments for the purpose of providing for the retirement of the outstanding bonds in whole or in part. The special assessment bonds may pledge the full faith and credit of the public corporation issuing them, as determined by the governing body of the public corporation. The special assessment bonds may be issued to include the amount of any premium to be paid upon the calling of the parking revenue bonds to be refunded or if such bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded; but the amount of the premium so included shall not exceed 5% of the principal amount of the bonds to be refunded. The procedures for levying the special assessments and for issuing the special assessment bonds shall be the same as that provided by charter or other applicable law. Nothing in this section shall be construed as providing for the refunding of noncallable unmatured bonds without the consent of the holders thereof.

History: Add. 1959, Act 78, Imd. Eff. June 29, 1959.

141.121 Rates for services; sufficiency; fixing and revising; pledge for payment of bonds; charges for services as lien on premises; certification of delinquent charges; notice of tenants' responsibility for payment of charges; cash deposit; discontinuance of service to enforce payment of charges; validation of enforcement methods included in ordinance.

Sec. 21. (1) Rates for services furnished by a public improvement shall be fixed before the issuance of the bonds. The rates shall be sufficient to provide for all the following:

(a) The payment of the expenses of administration and operation and the expenses for the maintenance of the public improvement as may be necessary to preserve the public improvement in good repair and working order.

(b) The payment of the interest on and the principal of bonds payable from the public improvements when the bonds become due and payable.

(c) The creation of any reserve for the bonds as required in the ordinance.

(d) Other expenditures and funds for the public improvement as the ordinance may require.

(2) The rates shall be fixed and revised by the governing body of the borrower so as to produce the amount described in subsection (1). The borrower shall covenant and agree in the ordinance authorizing the issuance of the bonds and on the face of each bond to maintain at all times the rates for services furnished by the public improvement sufficient to provide for the amount described in subsection (1). Rates pledged for the payment of bonds that are fixed and established pursuant to a contract or lease shall not be subject to revision or change, except in the manner provided in the lease or contract.

(3) Charges for services furnished to a premises may be a lien on the premises, and those charges delinquent for 6 months or more may be certified annually to the proper tax assessing officer or agency who shall enter the lien on the next tax roll against the premises to which the services shall have been rendered, and the charges shall be collected and the lien shall be enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of the lien for the taxes. The time and manner of certification and other details in respect to the collection of the charges and the enforcement of the lien shall be prescribed by the ordinance adopted by the governing body of the public corporation. However, in a case when a tenant is responsible for the payment of the charges and the governing body is so notified in writing, the notice to include a copy of the lease of the affected premises, if there is one, then the charges shall not become a lien against the premises after the date of the notice. In the event of filing of the notice, the public corporation shall render no further service to the premises until a cash deposit in a sum fixed in the ordinance authorizing the issuance of bonds under this act is made as security for the payment of the charges. In addition to any other lawful enforcement methods, the payment of charges for water service to any premises may be enforced by discontinuing the water service to the premises and the payment of charges for sewage disposal service or storm water disposal service to a premises may be enforced by discontinuing the water service, the sewage disposal service, or the storm water disposal service to the premises, or any combination of the services. The inclusion of these methods of enforcing the payment of charges in an ordinance adopted before February 26, 1974, is validated.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1941, Act 210, Imd. Eff. June 16, 1941;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.121;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1992, Act 305, Imd. Eff. Dec. 21, 1992.

141.122 Accounting of revenues; order of priority; disposition of surplus.

Sec. 22. (1) In the authorizing ordinance the governing body of the borrower shall provide that the revenues of the public improvement be accounted for separately from the other funds and accounts of the borrower in the following order of recorded priority:

(a) After provision for the payment for the next succeeding period of all current expenses of administration and operation and the current expenses for that period for maintenance as may be necessary to preserve the public improvement in good repair and working order.

(b) There shall be next set aside a sum sufficient to provide for the payment of the principal of and the interest upon all bonds payable from those revenues, as and when the bonds become due and payable. This account shall be designated “bond and interest redemption account”. In the event that the revenues of any operating year over and above those necessary for the operation and maintenance expenses shall be insufficient to pay the principal of and interest on the bonds maturing in any operating year, then an additional amount sufficient to pay the principal and interest shall be set aside out of the revenues of the next succeeding operating year, after provision for the expenses of operation and maintenance. In respect to the allocation and use of money in the bond and interest redemption account, due recognition shall be given as to priority rights, if any, between different issues or series of outstanding bonds. The public corporation may provide by ordinance that a reasonable excess amount shall be set aside in the bond and interest redemption account from time to time so as to produce and provide a reserve to meet any possible future deficiencies.

(c) Next there shall be set aside, in the manner and priority provided by the ordinance, the sum or sums necessary for the additional accounts as may be required.

(2) Revenues remaining, after satisfaction of subsection (1), at the end of any operating year shall be considered surplus and shall be disposed of by the governing body as provided in this act.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.122;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.123 Appropriation and use of revenues for payment of operation and maintenance expenses; appropriation and use of moneys raised by tax levy.

Sec. 23. The borrower may appropriate and use, and may covenant to appropriate and use, any part of its available income or revenues derived from any source other than from the operation of the public improvement in paying any expenses of operation or maintenance of the public improvement, but nothing in this act shall be construed to require the borrower to do so. Where the borrower is an authority incorporated under Act No. 31 of the Public Acts of the First Extra Session of 1948, as amended, being sections 123.951 to 123.965 of the Michigan Compiled Laws, any public corporation to which the public improvement or other property is leased by the authority may appropriate and use, and may covenant to appropriate and use, any part of its available income or revenues derived from any source other than from the operation of the public improvement or other property in paying any expenses of operation or maintenance of the public improvement or other property, but this act shall not be construed to require the public corporation to do so. The provisions of this act requiring the production, setting aside, and use of revenues for payment of operation and maintenance expenses shall be deemed to refer to such expenses, if any, which are in excess of any income or revenue appropriated and used as authorized in this section. Moneys raised by levy of taxes without limitation as to rate or amount in fulfillment of the pledge by a public corporation of its full faith and credit shall be appropriated only to the bond and interest redemption fund, and used only to pay principal of and interest on bonds.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.123;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974.

141.124 Money in several accounts of public improvement; separate deposit account; investment.

Sec. 24. (1) Money in the several accounts of the public improvement shall be deposited as designated by the governing body of the borrower. Money in the several accounts of the public improvement, except money in the bond and interest redemption account and money derived from the proceeds of sale of the bonds each of which shall be kept in a separate deposit account, may be kept in 1 deposit account. In that case the money in the combined deposit accounts shall be allocated on the books and records of the borrower to the various accounts in the manner provided in the authorizing ordinance. The governing body of the borrower may provide that the money in the several accounts of the public improvement may be kept in separate depository accounts. The money in the bond and interest redemption account shall be accounted for separately.

(2) Subject to the limitations and conditions provided in the authorizing ordinance, money in the several accounts of the public improvement may be invested in accordance with the public corporation's investment policy adopted by the legislative body or governing body of the public corporation under 1943 PA 20, MCL 129.91 to 129.96.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.124;—Am. 1960, Act 91, Eff. Aug. 17, 1960;—Am. 1963, Act 192, Eff. Sept. 6, 1963;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1985, Act 26, Imd. Eff. May 31, 1985;—Am. 1987, Act 263, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 228, Eff. Oct. 1, 1988;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.125 Fixing dates of operating year for public improvement.

Sec. 25. The ordinance authorizing the issuance of such bonds shall fix the dates of the beginning and ending of the operating year for such public improvement, subject to the right of the department of treasury to require that it correspond with the fiscal year of the borrower.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.125;—Am. 1983, Act 76, Imd. Eff. June 6, 1983.

141.126 Receiving fund surplus; deposit.

Sec. 26. Any money remaining in the accounts of the public improvement at the end of any operating year, which under the provisions of section 22 shall be considered surplus, may be transferred to other accounts of the public improvement or may be used for the purpose or purposes as the governing body may determine to be for the best interests of the borrower, unless some other disposition shall have been made in the ordinance authorizing the issuance of bonds under this act. In the event that money of the public improvement is insufficient to provide for the current expenses of the operation and maintenance account or the bond and interest redemption account, any money or securities in other accounts of the public improvement shall be transferred first to the operation and maintenance account and second to the bond and interest redemption account to the extent of any deficits in those accounts.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.126;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.127 Issuance of bonds by public corporation; applicable laws.

Sec. 27. A public corporation issuing bonds under this act is subject to all of the following:

(a) If the public corporation issuing the bonds meets the requirements of qualified status under section 303(3) of the revised municipal finance act, 2001 PA 34, MCL 141.2303, the public corporation complies with section 319(1) of the revised municipal finance act, 2001 PA 34, MCL 141.2319.

(b) If the public corporation issuing the bonds does not meet the requirements of qualified status under section 303(3) of the revised municipal finance act, 2001 PA 34, MCL 141.2303, the public corporation meets the requirements of section 303(7) and (8) and section 319(2) of the revised municipal finance act, 2001 PA 34, MCL 141.2303 and 141.2319.

(c) Section 321 of the revised municipal finance act, 2001 PA 34, MCL 141.2321.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.127;—Am. 1983, Act 76, Imd. Eff. June 6, 1983;—Am. 1985, Act 26, Imd. Eff. May 31, 1985;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.128 Effect of approval permitting issuance of bonds.

Sec. 28. Qualification or approval to issue obligations under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, that permits the issuance of bonds under this act shall not be considered an approval of the legality of issuing bonds under this act.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.128;—Am. 1983, Act 76, Imd. Eff. June 6, 1983;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.129 Service rates not subject to supervision by state agency.

Sec. 29. Rates charged for the services furnished by any public improvement purchased, acquired, constructed, improved, enlarged, extended and/or repaired under the provisions of this act shall not be subject to supervision or regulation by any state bureau, board, commission or other like instrumentality or agency thereof.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1937, Act 246, Imd. Eff. July 21, 1937;—Am. 1939, Act 34, Eff. Sept. 29, 1939;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.129.

141.130 Books of record and account; annual audit report.

Sec. 30. (1) Any borrower issuing revenue bonds under this act shall install, maintain, and keep proper books of record and account, separate from other records and accounts of such borrower, in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business, and affairs of the public improvement.

(2) Each public corporation shall file an audit report annually with the department of treasury within 6 months from the end of its fiscal year or as otherwise provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1941, Act 210, Imd. Eff. June 16, 1941;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.130;—Am. 1963, Act 192, Eff. Sept. 6, 1963;—Am. 1983, Act 76, Imd. Eff. June 6, 1983;—Am. 2002, Act 465, Imd. Eff. June 21, 2002.

141.131 Redemption of bonds before maturity.

Sec. 31. The governing body of the borrower authorizing bonds under this act may make provisions in the authorizing ordinance for the redemption before maturity of the bonds or a part of the bonds. In case of refunding, bonds of an issue less than all the outstanding bonds of the issue, shall not be called for redemption unless the borrower has on hand in its bond and interest redemption fund sufficient money to refund the bonds not otherwise appropriated or pledged, in excess of the amount of interest and principal maturing within the next 12 months from the redemption date.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1941, Act 210, Imd. Eff. June 16, 1941;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.131;—Am. 1978, Act 216, Imd. Eff. June 5, 1978.

141.132 Breach of contract not authorized; pledging of revenues; disconnection of lands not to affect liability under bond issue.

Sec. 32. Nothing in this act shall be construed as authorizing any borrower to impair or commit a breach of the obligation of any valid lien or contract created or entered into by it, the intention hereof being to authorize the pledging, setting aside and segregation of gross revenues only where consistent with outstanding obligations of such borrower. The severance of any lands from the jurisdiction of the borrower subsequent to the issuance of bonds under this act, shall be subject to the obligations created by the issuance of such bonds.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1941, Act 210, Imd. Eff. June 16, 1941;—CL 1948, 141.132.

141.133 Issuance of bonds without submitting proposition to voters for approval; notice of intent to issue bonds; petition requesting referendum; special election; verification and rejection of signatures; determining number of registered electors.

Sec. 33. Unless otherwise provided in this act, the powers conferred upon public corporations by this act shall be exercised by their respective governing bodies and this act shall be construed as authorizing the issuance of bonds under this act without submitting the proposition for the approval of the proposition to the voters of the borrowers. Except in the case of refunding bonds or bonds issued to comply with an order of a court or an order or permit requirement of a state or federal agency of competent jurisdiction to prevent or limit pollution of the environment, the governing body shall publish a notice of intent to issue bonds. If within 45 days after the publication of the notice a petition, signed by not less than 10% or 15,000 of the registered electors, whichever is less, residing within the limits of the borrower, is filed with the clerk, or other recording officer, of the borrower, requesting a referendum upon the question of the issuance of the bonds, then the bonds shall not be issued until approved by the vote of a majority of the electors of the borrower qualified to vote and voting on the bonds at a general or special election. The notice shall be directed to the electors of the borrower, and, if the borrower is an authority, to the electors of its constituent public corporations, and shall be published in a newspaper which has general circulation in the territory of the borrower, and shall state the maximum amount of bonds to be issued, the purpose of the bonds, source of payment, right of referendum on the bonds, and other information the governing body determines necessary to adequately inform the electors of the nature of the issue. A special election called for this purpose shall not be included in a statutory or charter limitation as to the number of special elections to be called within a period of time. Signatures on the petition shall be verified by a person under oath, as the actual signatures of the persons whose names are signed to the petition, and the clerk, or other recording officer, of the borrower shall have the same power to reject signatures and petitions as city clerks pursuant to section 25 of Act No. 279 of the Public Acts of 1909, as amended, being section 117.25 of the Michigan Compiled Laws. The number of registered electors in any borrower shall be determined by the township or city registration books, or both, or if the borrower is a village, then by the village registration books. Section 5(g) of Act No. 279 of the Public Acts of 1909, as amended, being section 117.5 of the Michigan Compiled Laws, relative to notice of intention to issue bonds, shall not apply to the authorization of the issuance of bonds under this act.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—Am. 1941, Act 210, Imd. Eff. June 16, 1941;—Am. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—Am. 1947, Act 204, Imd. Eff. June 13, 1947;—CL 1948, 141.133;—Am. 1969, Act 79, Imd. Eff. July 23, 1969;—Am. 1974, Act 27, Imd. Eff. Feb. 26, 1974;—Am. 1978, Act 216, Imd. Eff. June 5, 1978;—Am. 1982, Act 188, Imd. Eff. June 21, 1982.

141.133a Validation of bonds heretofore issued.

Sec. 33a. All bonds heretofore issued under this act as originally adopted or subsequently amended are hereby validated. A public corporation shall not contest the validity of any such bonds after the bonds have been sold and delivered and the public corporation has received the consideration therefor.

History: Add. 1974, Act 27, Imd. Eff. Feb. 26, 1974.

141.133b Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 33b. A petition under section 33, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 196, Eff. Mar. 23, 1999.

141.134 Liberal construction of act.

Sec. 34. This act, being necessary for and to secure the public health, safety, convenience and welfare of the counties, cities, incorporated villages, townships, school districts, port districts, and metropolitan districts of the state of Michigan, shall be liberally construed to effect the purposes hereof.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—CL 1948, 141.134.

141.136 Immediate necessity.

Sec. 36. This act, being necessary for and to secure the public health, safety, convenience and welfare of the counties, cities, incorporated villages, townships, school districts, port districts, and metropolitan districts of the state of Michigan, shall be given immediate effect.

History: 1933, Act 94, Imd. Eff. May 26, 1933;—CL 1948, 141.136.

141.137 Condemnation of property.

Sec. 37. Public corporations shall have the right and power to condemn property for public improvements. In the condemnation of property, public corporations may proceed under any act applicable thereto, or they may invoke and proceed under the provisions of Act No. 149 of the Public Acts of 1911, as the same may from time to time exist, and in so doing shall have all the rights, powers and privileges granted to "public corporation" as defined in that act.

History: Add. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.137.

Compiler's note: For provisions of Act 149 of 1911, referred to in this section, see MCL 213.21 et seq.

141.138 Trustee; appointment; powers and duties; pledging of trust funds.

Sec. 38. An ordinance authorizing the issuance of bonds under this act may provide for the appointment of a trustee with the powers and duties prescribed in the ordinance in respect to the bonds and the payment and security of the bonds including provision that funds, including the proceeds of bonds, which are trust funds under the ordinance, may be held in trust by the trustee for the primary benefit and payment of the holders of the bonds. These trust funds may also be pledged by the trustee pursuant to the ordinance to an entity providing additional security for the bonds pursuant to section 7a(1)(a).

History: Add. 1946, 1st Ex. Sess., Act 23, Eff. June 7, 1946;—CL 1948, 141.138;—Am. 1985, Act 26, Imd. Eff. May 31, 1985.

141.139 Water pollution; prevention or abatement; public corporation may accept grants or aid from U.S. government.

Sec. 39. Any public corporation is hereby authorized to apply for and accept grants or any other aid which the United States government or any agency thereof has authorized or may hereafter authorize to be given or made to the several states of the United States or to any political subdivisions or agencies thereof within the states for the construction of public improvements, including all necessary action preliminary thereto, the purpose of which is to aid in the prevention or abatement of water pollution.

History: Add. 1949, Act 244, Eff. Sept. 23, 1949.

****** 141.140 SUBSECTION (1) SHALL NOT APPLY AFTER DECEMBER 31, 1988: See (4) of 141.140 ******

141.140 Allocation system for private activity bonds; establishment; purpose; applicability; ratification of prior allocations; revocation of allocation; applicability of subsection (1).

Sec. 40. (1) Until otherwise provided by law, the state treasurer may establish and maintain an allocation system for private activity bonds, which system shall be considered to provide, pursuant to the authority granted by section 146(e) of the internal revenue code, a different formula for allocating the state ceiling among governmental units of the state having the authority to issue bonds from the formula provided in the internal revenue code. The allocation system established by the state treasurer shall apply to allocations made against the unified volume limitation per calendar year 1988 and each year thereafter and for bonds issued after December 31, 1987, that have allocations ratified by subsection (2).

(2) An allocation made under executive orders 1984-11, 1985-7, 1986-6, and 1986-18 for bonds issued on or after January 1, 1988, shall be considered ratified and issued with an allocation authorized by this section unless the allocation issued pursuant to an executive order was a carryforward allocation for the state volume cap for any calendar year prior to 1986.

(3) An allocation made other than through orders issued pursuant to this section or executive orders 1984-11, 1985-7, 1986-6 and 1986-18 is revoked.

(4) Subsection (1) shall not apply after December 31, 1988.

History: Add. 1987, Act 263, Imd. Eff. Dec. 28, 1987.

INTEREST RATES FOR PUBLIC CORPORATIONS
Act 342 of 1969

AN ACT to establish a maximum rate of interest at which public corporations may issue bonds and other evidences of indebtedness; and to authorize public corporations to establish, fix and adjust maximum rates of interest on certain assessments or contract obligations.

History: 1969, Act 342, Imd. Eff. Dec. 26, 1969;—Am. 1971, Act 40, Imd. Eff. June 17, 1971.

The People of the State of Michigan enact:

141.151 Definitions.

Sec. 1. As used in this act:

(a) "Public corporation" means any body corporate organized by or pursuant to the laws of this state to carry out a public governmental or propriety function, including, without limitation on the foregoing, the state or any school district, city, village, township, county, district, commission, authority, university, college, or any combination thereof, which is a corporate entity.

(b) "Bonds or other evidences of indebtedness" means any instrument providing for the payment of money, executed by or on behalf of a public corporation or which a public corporation has assumed and agreed to pay, including, without limitation on the foregoing bonds, notes, contracts, leases and certificates, but shall not include bonds or other evidences of indebtedness issued pursuant to Act No. 346 of the Public Acts of 1966, as amended.

History: 1969, Act 342, Imd. Eff. Dec. 26, 1969;—Am. 1971, Act 40, Imd. Eff. June 17, 1971.

141.152 Maximum interest rate on certain bonds and evidences of indebtedness.

Sec. 2. Notwithstanding the provisions of any other law, charter provision, ordinance, ballot or other proceedings to the contrary, any public corporation may agree or contract to pay interest on bonds or other evidences of indebtedness issued by it pursuant to law, subject where required by law to the prior permission of the municipal finance commission, at an interest rate or rates not greater than 8% per annum on bonds or other evidences of indebtedness issued after the effective date of this act but before July 1, 1973.

History: 1969, Act 342, Imd. Eff. Dec. 26, 1969;—Am. 1971, Act 40, Imd. Eff. June 17, 1971.

141.153 Maximum interest rate on assessments or certain contract obligations; adjustment.

Sec. 3. Notwithstanding the provisions of any other law, charter provision or ordinance to the contrary, any assessment made by a public corporation against any corporation, public or private, or any firm or person, or any contract obligation incurred by a public corporation, in anticipation of which bonds are to be issued, may bear any rate of interest, not exceeding 1 percentage point over the maximum rate at which the bonds or other evidences of indebtedness are to be offered for sale, determined by the governing body of the assessing or contracting public corporation at the time of assessment or contract obligation. If bonds or other evidences of indebtedness are subsequently issued in anticipation of the assessment or contract obligation, the rate of interest payable on the assessment or contract obligation shall be adjusted after the issuance to the rate required to produce an amount sufficient to pay the interest on the bonds or other evidences of indebtedness as they mature, but not exceeding 1 percentage point over the average rate of interest borne by the bonds or other evidences of indebtedness.

History: 1969, Act 342, Imd. Eff. Dec. 26, 1969;—Am. 1971, Act 40, Imd. Eff. June 17, 1971.

THE UNLIMITED TAX ELECTION ACT
Act 189 of 1979

AN ACT to implement section 6 of article 9 of the state constitution of 1963; to secure the good credit of public corporations of this state; to authorize elections in public corporations to approve unlimited tax pledges; and to validate approval of unlimited tax pledges made in prior elections.

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

The People of the State of Michigan enact:

141.161 Short title.

Sec. 1. This act shall be known and may be cited as "the unlimited tax election act".

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

Compiler's note: Former MCL 141.161, pertaining to acquisition and financing of city parking facilities, was repealed by Act 71 of 1957.

141.162 Definitions.

Sec. 2. As used in this act, except when otherwise indicated by the context:

(a) "Legislative body" means the board, council, commission, or other body having legislative or general governing power of a public corporation.

(b) "Public corporation" means a county, city, village, township, charter township, port authority, metropolitan district, or authority of this state, or a combination of these entities when authorized by law to act jointly.

(c) "Tax obligation" means a bond, note, contract obligation, assessment, or other evidence of indebtedness payable primarily or secondarily from ad valorem taxes as a general or full faith and credit obligation of a public corporation.

(d) "Unlimited tax pledge" means an undertaking by a public corporation to secure and pay a tax obligation from ad valorem taxes to be levied on all taxable property within the boundaries of the public corporation without limitation as to rate or amount and in addition to other taxes which the public corporation may be authorized to levy.

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

Compiler's note: Former MCL 141.162, pertaining to acquisition and financing of city parking facilities, was repealed by Act 71 of 1957.

141.163 Purpose.

Sec. 3. This act creates full and complete additional and alternative methods for the exercise of the powers granted in this act.

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

Compiler's note: Former MCL 141.163, pertaining to acquisition and financing of city parking facilities, was repealed by Act 71 of 1957.

141.164 Unlimited tax pledges for payment of tax obligations; resolution submitting question to vote of electors; election; approval; binding unlimited tax pledges; tax levy.

Sec. 4. (1) If a public corporation is authorized by statute or charter to issue or incur tax obligations which under the terms of section 6 of article 9 of the state constitution of 1963 may be secured by unlimited tax pledges of the public corporation if approved by its electors, the legislative body of the public corporation may by resolution submit the question of making 1 or more unlimited tax pledges in support of 1 or more tax obligations to a vote of its electors at a regularly scheduled election to be held in the public corporation or at a special election which may be called for this purpose by the legislative body.

(2) An election authorized under this section shall be called and conducted pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws.

(3) Upon the approving vote of a majority of the qualified electors of the public corporation voting on the question, the public corporation may make 1 or more binding unlimited tax pledges for the payment of 1 or more tax obligations referred to in the ballot. After this vote of approval the public corporation may levy, for payment of these obligations, ad valorem taxes on all taxable property within its boundaries without regard to a charter, statutory, or constitutional tax limitation, and in addition to other taxes which the public corporation may be authorized to levy. However, the tax which may be levied shall not be excess of a rate or amount sufficient for payment of the obligations.

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

141.165 Different tax obligations as single ballot proposition; contents of ballot question and notice of election; new authority not granted.

Sec. 5. (1) Even though the tax obligations may be for different purposes and may be issued or incurred individually over a period of time, a public corporation may submit the question of making 1 or more unlimited tax pledges in support of 1 or more tax obligations as a single ballot proposition.

(2) The ballot question shall set forth the maximum principal amount of each tax obligation to be secured by the unlimited tax pledge or pledges.

(3) The notice of election shall set forth a brief general description of the purpose of each unlimited tax pledge, a statement of the estimated period of time over which each tax obligation is expected to be issued or incurred, and other information as the legislative body of the public corporation determines to be necessary to adequately inform the electors concerning the question. The statement of estimated period of time shall be considered to be for informational purposes and shall not be binding upon the public corporation if the legislative body of the public corporation later determines that changed circumstances have rendered the estimate impossible or impractical to comply with.

(4) This act shall not grant a public corporation new authority to combine questions of issuing or incurring a number of different tax obligations in a single ballot proposition, require a public corporation to secure approval of its electors to issue or incur tax obligations if not otherwise required by law, or require a public corporation to submit the question of making an unlimited tax pledge in support of a tax obligation which has been approved by its electors.

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

141.166 Time of making unlimited tax pledge in support of tax obligation.

Sec. 6. A public corporation shall not be required to have issued or incurred 1 or more tax obligations to be supported by 1 or more unlimited tax pledges before the election at which the question of making the pledges is submitted, and a public corporation may conduct the election either before, concurrently with, or after issuing or incurring a tax obligation. A public corporation may make an unlimited tax pledge in support of a tax obligation before the election to approve the pledge, but a pledge shall not be binding on the public corporation until the question of making the pledge has been approved by the electors of the public corporation as provided in section 4.

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

141.167 Validation of prior elections.

Sec. 7. Elections held in substantial compliance with and before the effective date of this act shall be considered to have secured voter approval of an unlimited tax pledge and are hereby validated.

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

141.168 Liberal construction.

Sec. 8. This act shall be liberally construed to effect its purposes.

History: 1979, Act 189, Imd. Eff. Dec. 21, 1979.

TOWNSHIP PARKING FACILITIES
Act 219 of 1952

AN ACT to authorize townships to acquire and operate automobile parking facilities for the use of the public; to provide the manner of acquiring and financing the same; and to authorize the leasing of space therein for other uses.

History: 1952, Act 219, Eff. Sept. 18, 1952.

The People of the State of Michigan enact:

141.171 Automobile parking facilities; leasing space, limitation.

Sec. 1. Any township may acquire, improve, enlarge, extend and operate automobile parking facilities for the use of the public and may finance the same by the issuance of revenue bonds, all as provided in Act No. 94 of the Public Acts of 1933, as now or hereafter amended, being sections 141.101 to 141.139, inclusive, of the Compiled Laws of 1948. Such facilities at any 1 location may be operated independently or jointly with those at 1 or more other locations. For the purpose of such acquirement a township may purchase, construct and/or condemn property. Such facilities may be acquired and operated by a township after first securing the approval of the electors thereof, and shall be open to the use of the public in general on the same terms as may be prescribed by the township board. The township board shall submit such proposition to the electors of the township at any general or special election called for that purpose, and if a majority vote of the electors voting thereon shall vote in favor thereof, the township board shall be authorized to acquire and operate automobile parking facilities, as provided under the provisions of this act. Automobile parking facilities owned by a township and for the use of which a fee is charged shall not be exempt from taxation.

History: 1952, Act 219, Eff. Sept. 18, 1952.

141.172 Automobile parking facilities; leasing of ground and basement floor space by township for purposes other than parking of automobiles.

Sec. 2. The township board of the township may lease for purposes other than the parking of automobiles, upon such terms and for such periods as it shall deem advisable, any portion of the ground and basement floor space in any structure acquired hereunder, but not to exceed 25 per centum of the total floor area of the entire structure, if it shall deem such leasing to be beneficial in connection with the acquirement and/or operation of such facilities. If a structure is designed for the parking of automobiles on the roof, such roof area shall be considered as a part of the floor area of the structure. The income from any such lease shall be deemed a part of the revenues of the facilities: Provided, however, That no business involving the servicing, repairing or the furnishing of supplies for motor vehicles other than the parking of such vehicles and the delivery thereof shall be dispensed or furnished at or in connection with any township parking facility.

History: 1952, Act 219, Eff. Sept. 18, 1952.

141.173 Scope of act.

Sec. 3. This act shall not be deemed to repeal or limit the powers granted in any other act but shall be construed as cumulative authority for the exercise of the powers herein granted.

History: 1952, Act 219, Eff. Sept. 18, 1952.

COMPROMISE OF MUNICIPAL INDEBTEDNESS
Act 151 of 1933

141.191,141.192 Repealed. 1983, Act 35, Imd. Eff. May 10, 1983.

COMPOSITION OF DEBTS
Act 72 of 1939

141.201 Repealed. 1982, Act 70, Eff. May 5, 1982.

DEFAULTED MUNICIPAL BONDS
Act 204 of 1933

AN ACT to authorize municipalities to call for and accept tenders of defaulted bonds.

History: 1933, Act 204, Imd. Eff. June 28, 1933.

The People of the State of Michigan enact:

141.211 Defaulted municipal bonds.

Sec. 1. Any county, city, township, village, or school district in this state is hereby authorized to call for tenders of, and accept defaulted bonds of such municipality by complying with the following terms and conditions.

History: 1933, Act 204, Imd. Eff. June 28, 1933;—CL 1948, 141.211.

141.212 Defaulted municipal bonds; call for tenders.

Sec. 2. Whenever any bonds of any special assessment district or improvement district of any county, city, township, village, or school district of the state of Michigan shall have been or have remained in default as to principal or interest for a period of longer than 6 months and there shall not be, or have been within said period of default, sufficient sums of money on hand belonging to said special assessment district or improvement district to pay the principal and interest of said bonds so in default, the governing body of such municipality may by resolution call for tenders of such defaulted bonds and advertise such call for tenders of bonds at least once, in a newspaper having general circulation in such municipality. Such advertisement shall be published at least 10 days prior to the time for presentation of such tenders of bonds.

History: 1933, Act 204, Imd. Eff. June 28, 1933;—CL 1948, 141.212.

141.213 Defaulted municipal bonds; tenders, acceptance or rejection.

Sec. 3. Upon the giving of such call for tenders of such bonds, the holder or holders thereof may submit his tender to the governing body of such municipality, sealed and in writing, stipulating the lowest price at which the owner of such bond or bonds will sell such bonds to said municipality. At the time set for the opening and examining of such tenders the governing body of such municipality shall examine and list such tenders as shall have been made and may accept the lowest tender thereof, but not to exceed the amount of funds available of such special assessment district or improvement project: Provided, That such municipality shall first accept the tender or tenders which are the lowest in price and next accept such additional tenders at the next lowest price, the total of said tenders so accepted not to be in excess of the available balance of funds of said special assessment district or project: Provided further, That in all such advertisements of calls for tenders, the municipality shall reserve the right to reject all tenders, and such municipality may upon the opening of such tenders, reject all of the same.

History: 1933, Act 204, Imd. Eff. June 28, 1933;—CL 1948, 141.213.

141.214 Defaulted municipal bonds; payment of accepted tenders.

Sec. 4. Upon the acceptance of any of such tenders, said bonds shall be paid at the price requested by such tenders, out of the funds available therefor of such special assessment district or improvement project, and such bonds as shall have been accepted in pursuance to such tenders shall be immediately cancelled.

History: 1933, Act 204, Imd. Eff. June 28, 1933;—CL 1948, 141.214.

MUNICIPAL BORROWING
Act 79 of 1937

AN ACT to authorize any municipality, as herein defined, to borrow money and issue notes in anticipation of the collection of revenues other than taxes and special assessments; and to prescribe the powers and duties of certain state departments, commissions, and officials.

History: 1937, Act 79, Imd. Eff. June 14, 1937;—Am. 1983, Act 50, Imd. Eff. May 16, 1983.

The People of the State of Michigan enact:

141.221 Definitions.

Sec. 1. The following definitions shall apply for the purposes of this act:

(a) "Municipality" means any local unit of government of this state which may now or may hereafter operate any public utility pursuant to law for the purpose of supplying bus or street railway transportation, including all plants, works, instrumentalities, and properties used or useful in connection with the operation of any public utility for the purpose of supplying street railway or bus transportation, except any gas or electric utility, or water supply systems, including all plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply system, the treatment of water or the distribution of water, or both, except any gas or electric utility.

(b) "Governing" means the council, common council, or commission of a municipality.

(c) "Fiscal year" means the 12-month period as may be determined by statute, charter, or ordinance as the fiscal year of the municipality.

History: 1937, Act 79, Imd. Eff. June 14, 1937;—Am. 1947, Act 342, Eff. Oct. 11, 1947;—CL 1948, 141.221;—Am. 1983, Act 50, Imd. Eff. May 16, 1983.

141.222 Municipal borrowing; bus and street railway transportation or water supply utility purposes.

Sec. 2. Any municipality of this state that operates any public utility pursuant to law for the purpose of supplying bus or street railway transportation or water supply may, by resolution of its governing body, borrow money and issue notes for the purpose of acquiring, constructing, purchasing, owning, maintaining, or operating any public utility as described in section 1(a), as the board in charge of the utility and the governing body of the municipality may consider necessary or desirable for the purpose of supplying bus or street railway transportation or water supply to the inhabitants of the municipality and within a distance of 10 miles from any portion of its corporate limits, and as the public convenience may require, together with all the necessary equipment.

History: 1937, Act 79, Imd. Eff. June 14, 1937;—Am. 1947, Act 342, Eff. Oct. 11, 1947;—CL 1948, 141.222;—Am. 2002, Act 193, Imd. Eff. Apr. 29, 2002.

141.223 Notes subject to MCL 141.2101 to 141.2821.

Sec. 3. Notes issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1937, Act 79, Imd. Eff. June 14, 1937;—CL 1948, 141.223;—Am. 1983, Act 50, Imd. Eff. May 16, 1983;—Am. 2002, Act 193, Imd. Eff. Apr. 29, 2002.

141.224 Municipal borrowing for utility purposes; limitations.

Sec. 4. Any governmental unit described in this act may borrow money and issue notes in anticipation of the collection of revenues of any utility described in this act to an amount not exceeding 10% of the total revenues of the public utility for the preceding fiscal year. The notes may be issued at any time against current revenues of the utility or the same may be issued against the revenues of any ensuing fiscal year and shall be made payable not later than the fiscal year against which revenues are pledged.

History: 1937, Act 79, Imd. Eff. June 14, 1937;—CL 1948, 141.224;—Am. 2002, Act 193, Imd. Eff. Apr. 29, 2002.

141.225 Repealed. 2002, Act 193, Imd. Eff. Apr. 29, 2002.

Compiler's note: The repealed section pertained to municipal borrowing for utility purposes.

141.226 Municipal borrowing for utility purposes; liability of municipality; construction of act.

Sec. 6. The faith and credit of the municipality shall remain pledged for the payment of said notes: Provided, however, That this act shall not repeal any existing statutory or charter provisions authorizing the borrowing of money or the issuance of bonds or notes, but shall be construed as an additional grant of power to that now prescribed by other statutory or charter provisions. The notes and revenues herein provided for shall not be deemed to be within any statutory or charter limitation of tax rate, bonded indebtedness, or other indebtedness, but shall be deemed to be authorized in addition thereto.

History: 1937, Act 79, Imd. Eff. June 14, 1937;—CL 1948, 141.226.

IMPOUNDED MONEYS IN SINKING FUND FOR PAYMENT OF COUNTY HIGHWAY BONDS
Act 224 of 1939

141.231 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

VALIDATION OF PROCEEDINGS FOR AUTHORIZATION OF ELECTRIC REVENUE CERTIFICATES
Act 328 of 1941

141.241-141.244 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

BORROWING FOR ROAD PURPOSES
Act 143 of 1943

AN ACT to empower boards of county road commissioners to borrow money in anticipation and upon the faith and credit of future receipts of revenues, derived from certain state collected taxes, for the purpose of purchasing road machinery or equipment or for improvement of county highways or for general county road purposes.

History: 1943, Act 143, Eff. July 30, 1943;—Am. 1951, Act 227, Eff. Sept. 28, 1951.

The People of the State of Michigan enact:

141.251 Borrowing money and issuing notes for county road purposes; resolution.

Sec. 1. Boards of county road commissioners are authorized and empowered, upon the adoption of a resolution, to borrow money, the sum of which shall not exceed the amount previously authorized by their respective county board of commissioners, in anticipation of and to pledge for the payment of the borrowed money, future revenues derived from state collected taxes returned to the county for county road purposes pursuant to law and to issue notes for the purpose of purchasing road machinery or equipment, for improvement of county highways, or for other general county road purposes.

(2) Notes issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1943, Act 143, Eff. July 30, 1943;—CL 1948, 141.251;—Am. 1951, Act 227, Eff. Sept. 28, 1951;—Am. 1983, Act 51, Imd. Eff. May 16, 1983;—Am. 2002, Act 194, Imd. Eff. Apr. 29, 2002.

Compiler's note: Sec. 1. should evidently read "Sec. 1. (1)."

141.252 Notes; issuance; provisions.

Sec. 2. All notes issued under this act are subject to all of the following provisions:

(a) For the purpose of computing the amount that may be borrowed, a loan made under this act shall not, when payable as provided in this section, exceed that percentage of the total aggregate revenues derived from state collected taxes returned to a county for county road purposes pursuant to law for the 5 immediately succeeding years:

(*i*) In 10 installments, 40%.
(*ii*) In 9 installments, 36%.
(*iii*) In 8 installments, 32%.
(*iv*) In 7 installments, 28%.
(*v*) In 6 installments, 24%.
(*vi*) In 5 installments, 20%.
(*vii*) In 4 installments, 16%.
(*viii*) In 3 installments, 12%.
(*ix*) In 2 installments, 8%.
(*x*) In 1 installment, 4%.

(b) A loan payable in more than 2 installments shall not be authorized for any purpose other than for the construction, improvement, maintenance, or repair of highways. At no time shall the total loans outstanding under this act exceed 40% of the sum of the revenues derived from state collected taxes returned to the county for county road purposes for the immediately preceding 5 calendar years and not specifically allocated for other purposes.

(c) The resolution authorizing the borrowing shall contain an irrevocable appropriation providing for the payment of the principal and interest from the money to be derived from state collected taxes returned to the county for county road purposes pursuant to law that have not been previously specifically allocated for other purposes.

History: 1943, Act 143, Eff. July 30, 1943;—CL 1948, 141.252;—Am. 1951, Act 227, Eff. Sept. 28, 1951;—Am. 1973, Act 65, Imd. Eff. July 23, 1973;—Am. 2002, Act 194, Imd. Eff. Apr. 29, 2002.

141.253 Repealed. 2002, Act 194, Imd. Eff. Apr. 29, 2002.

Compiler's note: The repealed section pertained to approval or denial by municipal finance commission or successor agency of borrowing and issuing of notes.

141.254 Saving clause; pledging allocated revenues prohibited.

Sec. 4. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section or of this act, it being the legislative intent that this act shall stand, notwithstanding the invalidity of any such provisions or section. Nothing in this act contained shall be construed as permitting any board of county road commissioners to pledge future revenues derived from state collected taxes returned to such county for county road purposes which are by law required to be allocated to (1) any city or village, (2) the relief of assessment districts established under provisions of Act No. 59 of the Public Acts of 1915, as amended, or (3) the reduction of taxes for the payment of bonds.

History: 1943, Act 143, Eff. July 30, 1943;—CL 1948, 141.254;—Am. 1951, Act 227, Eff. Sept. 28, 1951.

Compiler's note: Act 59 of 1915, referred to in this section, was repealed by Act 77 of 1958.

PUBLIC IMPROVEMENT FUNDS
Act 177 of 1943

AN ACT to provide for the creation of a fund or funds in political subdivisions for acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings; to provide for appropriations, credits and transfers to said fund or funds; and to provide for the disbursement thereof.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943;—Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944;—Am. 1956, Act 136, Eff. Aug. 11, 1956.

The People of the State of Michigan enact:

141.261 Funds for public improvements or buildings.

Sec. 1. The legislative or governing body of any political subdivision is hereby authorized and empowered to create and establish a fund or funds for the purpose of appropriating, providing for, setting aside and accumulating moneys to be used for acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings, which said political subdivision may by the provisions of its charter or the general law be authorized to acquire, construct, extend, alter, enlarge, equip or repair.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943;—Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944;—CL 1948, 141.261;—Am. 1956, Act 136, Eff. Aug. 11, 1956.

141.262 Funds for public improvements or buildings; transfer or encumbrance.

Sec. 2. Notwithstanding the provisions of any law or the charter of any city or village, moneys accumulated in said fund shall not be transferred, encumbered or otherwise disposed of, except for the purpose of acquiring, constructing, extending, altering, repairing or equipping public improvements or public buildings, which a political subdivision may by the provisions of its charter or the general law be authorized to acquire, construct, extend, alter, repair or equip. Funds established and moneys on hand which had been allocated to or appropriated for the making of capital improvements on January 1, 1956, may be transferred to or credited to such reserve fund created under authority of this act and when so transferred or credited shall be governed by the provisions of this act.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943;—Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944;—CL 1948, 141.262;—Am. 1956, Act 136, Eff. Aug. 11, 1956.

141.263 Funds for public improvements or buildings; allocation of miscellaneous revenues; sale of lands.

Sec. 3. The legislative or governing body of any political subdivision may allocate to said fund miscellaneous revenues received and credited to the general fund, including revenues received by said political subdivision under the provisions of Act No. 155 of the Public Acts of 1937, as amended, being sections 211.351 to 211.364, inclusive, of the Compiled Laws of 1948, and also revenues received from the sale of lands owned by the political subdivision and which are no longer needed for public purposes, if said revenues are not otherwise pledged or encumbered for other purposes.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943;—Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944;—CL 1948, 141.263;—Am. 1956, Act 136, Eff. Aug. 11, 1956.

141.264 Tax limitation.

Sec. 4. Nothing in this act shall be construed so as to authorize any city or village to exceed any tax limitation imposed by law or charter of said city or village.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943;—CL 1948, 141.264.

141.265 Additional powers; political subdivision construction.

Sec. 5. This act shall be in addition to all powers heretofore granted to political subdivisions by state law, or by any charter thereof.

The term “political subdivision” as used in this act shall be construed to mean any county, city, village, township, school district or other local unit of this state.

History: 1943, Act 177, Imd. Eff. Apr. 17, 1943;—Am. 1944, 1st Ex. Sess., Act 4, Imd. Eff. Feb. 16, 1944;—CL 1948, 141.265.

VALIDATION OF PUBLIC UTILITY WATER BONDS
Act 297 of 1945

141.271,141.272 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

PAYMENT OF INTEREST ON ROAD BONDS
Act 106 of 1919

141.281 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

LEGALIZATION OF GOOD ROAD BONDS
Act 407 of 1913

141.291,141.292 Repealed. 1958, Act 77, Eff. Sept. 13, 1958.

RECORDS OF HIGHWAY AND DRAINAGE DISTRICT BONDS
Act 178 of 1931

141.301-141.303 Repealed. 1958, Act 77, Eff. Sept. 13, 1958;—1980, Act 180, Imd. Eff. July 2, 1980.

ELECTRIC PLANT; VALIDATION OF PROCEEDINGS
Act 11 of 1956 (Ex. Sess.)

AN ACT validating proceedings by any city or village, whether under home rule or general charter, owning and operating its electric plant and system by which additional equipment for its electric plant and system was acquired by means of conditional sales or title retention or other purchase contract; validating any certificates, warrants or other documents authorized and issued by any such city or village as evidence of the obligation to pay or the right to receive the purchase price or any part or installment thereof pursuant to such contract, and payable from the revenues of such electric plant or system; and making such certificates, warrants or other separate evidences of the obligation to pay such purchase price negotiable instruments.

History: 1956, Ex. Sess., Act 11, Imd. Eff. Oct. 2, 1956.

The People of the State of Michigan enact:

141.311 Municipal electric plant; purchase of equipment on conditional sales contract, validation; negotiability of revenue obligations.

Sec. 1. In any case where the governing body of any city or village in the state of Michigan which owns and operates its electric plant or system has adopted proceedings for the purchase of additional equipment for its electric plant or system, providing for the purchase of such additional equipment on a conditional sales contract, or other contract of purchase, pursuant to which contract the incurrence of obligations for the purchase price or the issuance of electric revenue certificates payable solely from the revenues of the electric system of such city or village has been authorized, such proceedings are hereby validated, ratified and confirmed and the provisions thereof are hereby declared to be binding and effective, in accordance with their terms, all with like force and effect as though such proceedings had been fully authorized by statutes existing at the time of their adoption. Any such city or village, through such of its officers as may have or shall be designated by the legislative body thereof, is hereby authorized to carry out the duties imposed under any such conditional sales or other purchase contract, to make payment of any revenue obligations or certificates incurred or issued under such contract, and to do and perform such acts and things as may be necessary to the issuance and payment of such obligations or certificates, and such obligations or certificates now outstanding, or when incurred or issued pursuant to such proceedings, shall be valid and binding obligations of such city or village, in accordance with their terms, and such certificates shall be fully negotiable under the provisions of the negotiable instruments law as it is in force in the state of Michigan.

History: 1956, Ex. Sess., Act 11, Imd. Eff. Oct. 2, 1956.

141.312 Definitions.

Sec. 2. As used in this act:

(a) The terms “city” and “village” mean any city and any village in the state of Michigan existing or operating under a special or home rule charter as well as any under a general charter; and

(b) The term “electric revenue certificates” means evidences of obligations, incurred by any city or village for or to provide funds for the extension or improvement of its electric plant or system, which are payable solely from the revenues derived from the operation of said plant or system, in whatever form.

History: 1956, Ex. Sess., Act 11, Imd. Eff. Oct. 2, 1956.

ACQUISITION OF PARKS
Act 153 of 1996

AN ACT to provide for the acquisition and improvement of parks by certain local units of government; to provide for special assessments; and to provide for the issuance of bonds.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996.

The People of the State of Michigan enact:

141.321 Definitions.

Sec. 1. As used in this act:

(a) "Park" means an area of land or water, or both, dedicated to 1 or more of the following uses:

(*i*) Recreational purposes, including but not limited to landscaped tracts; picnic grounds; playgrounds; athletic fields; camps; campgrounds; zoological and botanical gardens; swimming, boating, hunting, fishing, and birding areas; and foot and bridle paths.

(*ii*) Open or scenic space.

(*iii*) Environmental, conservation, nature, or wildlife areas.

(b) "Record owner" means an individual, partnership, corporation, limited liability company, association, or other legal entity, possessed of the most recent fee title or a land contract vendee's interest in land as shown by the records of the county register of deeds.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996.

141.322 Acquisition or improvement of parks; financing; establishment of special assessment district; petition; acquisition by condemnation prohibited; scope of powers.

Sec. 2. (1) The county board of commissioners of a county may acquire or improve a park, defray all or part of the cost of the park acquisition or improvement by special assessments, and finance the park acquisition or improvement by borrowing money and issuing bonds in anticipation of the collection of the special assessments, in the same manner as a board of county road commissioners proceeding under sections 1 to 17 of Act No. 246 of the Public Acts of 1931, being sections 41.271 to 41.287 of the Michigan Compiled Laws. However, the proceedings for the establishment of a special assessment district shall be initiated by filing with the county board of commissioners a petition meeting both of the following requirements:

(a) The petition is signed by record owners of land constituting not less than 2/3 of the total land area in the special assessment district as finally established.

(b) The petition is signed by 2/3 of the record owners of land in the special assessment district as finally established.

(2) The city council of a city organized under the fourth class city act, Act No. 215 of the Public Acts of 1895, being sections 81.1 to 113.20 of the Michigan Compiled Laws, may acquire or improve a park, defray all or part of the cost of the park acquisition or improvement by special assessments, and finance the park acquisition or improvement by borrowing money and issuing bonds in anticipation of the collection of the special assessments, in the same manner as authorized in an ordinance adopted under chapter XXIVA of Act No. 215 of the Public Acts of 1895, being sections 104A.1 to 104A.5 of the Michigan Compiled Laws. However, the proceedings for the establishment of a special assessment district shall be initiated by the filing of a petition meeting both of the following requirements:

(a) The petition is signed by record owners of land constituting not less than 2/3 of the total land area in the special assessment district as finally established.

(b) The petition is signed by 2/3 of the record owners of land in the special assessment district as finally established.

(3) The legislative body of a city organized under the home rule city act, Act No. 279 of the Public Acts of 1909, being sections 117.1 to 117.38 of the Michigan Compiled Laws, may acquire or improve a park, defray all or part of the cost of the park acquisition or improvement by special assessments, and finance the park acquisition or improvement by borrowing money and issuing bonds in anticipation of the collection of the special assessments, in the same manner as authorized for other public improvements in charter provisions adopted under sections 4a(7) and 4d of Act No. 279 of the Public Acts of 1909, being sections 117.4a and 117.4d of the Michigan Compiled Laws. However, the proceedings for the establishment of a special assessment district shall be initiated by the filing of a petition meeting both of the following requirements:

(a) The petition is signed by record owners of land constituting not less than 2/3 of the total land area in the special assessment district as finally established.

(b) The petition is signed by 2/3 of the record owners of land in the special assessment district as finally established.

(4) The legislative body of a village or the township board of a township may acquire or improve a park, defray all or part of the cost of the park acquisition or improvement by special assessments, and finance the park acquisition or improvement by borrowing money and issuing bonds in anticipation of the collection of special assessments, in the same manner as authorized by sections 1, 2, 3, and 4 of the township and village public improvement and public service act, Act No. 116 of the Public Acts of 1923, being sections 41.411, 41.412, 41.413, and 41.414 of the Michigan Compiled Laws. The proceedings for the establishment of a special assessment district shall be initiated by filing a petition meeting both of the following requirements:

(a) The petition is signed by record owners of land constituting not less than 2/3 of the total land area in the special assessment district as finally established.

(b) The petition is signed by 2/3 of the record owners of land in the special assessment district as finally established.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996.

141.323 Condemnation prohibited.

Sec. 3. A county, township, city, or village shall not acquire property for a park under this act by condemnation. Property shall instead be acquired from a willing seller.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996.

141.324 Additional powers not limited.

Sec. 4. The powers granted by this act are in addition to, and not a limitation on, those granted by law or charter.

History: 1996, Act 153, Imd. Eff. Apr. 3, 1996.

TRANSFER OF UNEXPENDED BALANCES TO COUNTY
Act 7 of 1949

AN ACT to authorize townships, cities and incorporated villages by vote of the electors thereof to appropriate and transfer unexpended balances to the county in which situated to be expended for county purposes.

History: 1949, Act 7, Imd. Eff. Mar. 3, 1949.

The People of the State of Michigan enact:

141.351 Transfer of unexpended balances by townships or municipalities to county.

Sec. 1. The several townships, cities and incorporated villages of this state, by a majority vote of the electors thereof voting at any general or special election called for that purpose, are hereby authorized to appropriate and transfer any unexpended balances or portions thereof in its general or contingent fund to the county in which it is situated, such revenues to be credited to the general fund of the county, to be disbursed for such purpose or purposes as may be designated by the electors in voting on the proposition, and, in case of no designation, as shall be determined by the board of supervisors of the county.

History: 1949, Act 7, Imd. Eff. Mar. 3, 1949.

141.352 Transfer of unexpended balances; submission to electors; conduct of election.

Sec. 2. The question of transferring unexpended balances or portions thereof by any township, city or incorporated village to the county in which situated may be submitted to the electors of such township, city or incorporated village by the legislative body thereof at any general election to be held therein or at a special election to be called by the legislative body for that purpose. The provisions of the general election law shall govern the conducting of any such election and the counting, canvassing and returning of votes cast. In case a majority of the electors voting on the proposition shall vote in favor thereof, the treasurer of the township, city or incorporated village, as the case may be, shall be authorized to make the transfer, in accordance with the requirements of the proposition voted on.

History: 1949, Act 7, Imd. Eff. Mar. 3, 1949.

LOCAL IMPROVEMENT REVOLVING FUND
Act 57 of 1957

AN ACT to authorize cities and villages in Michigan to raise money by taxes or bond issue within certain limits for the purpose of establishing a local improvement revolving fund; providing for the use of moneys in the fund and the reimbursement of moneys used therefrom; and other matters relating to the creation of the fund and its use.

History: 1957, Act 57, Eff. Sept. 27, 1957.

The People of the State of Michigan enact:

141.371 Definitions.

Sec. 1. For the purpose of this act unless the context otherwise indicates:

(a) "Local improvement" means any public improvement, the expense of which, in whole or in part, the governing body of any city or village pursuant to law or charter has determined shall be defrayed by special assessments upon the property specially benefited.

(b) "Governing body" means the council, common council, or commission of a city or the council, commission, or board of trustees of a village.

(c) "Local improvement revolving fund" means the fund authorized to be established under this act for the purposes specified in this act.

(d) "Tax elector" means a person having the qualifications of an elector.

History: 1957, Act 57, Eff. Sept. 27, 1957;—Am. 2002, Act 287, Imd. Eff. May 9, 2002.

141.372 Local improvement revolving fund; establishment.

Sec. 2. Any city or village may advance the cost either in whole or in part of any local improvement, and in order to provide working capital funds for such purpose, by resolution of its governing body, may establish a fund to be designated "local improvement revolving fund."

History: 1957, Act 57, Eff. Sept. 27, 1957.

141.373 Sources of funds.

Sec. 3. Any city or village may provide funds for the local improvement revolving fund by any or all of the following means:

(a) The allocation to the fund of miscellaneous revenues, if the revenues are not otherwise pledged or encumbered.

(b) The appropriation of funds raised by general taxation in accordance with authorization otherwise granted by law or charter, as the governing body may determine to be necessary for the fund; but no city or village shall exceed, for this purpose, any tax limitation imposed by other law or charter.

(c) Subject to a vote of its tax electors, bonds pledging the full faith and credit of the city or village for those purposes. No bonds shall be issued under this authorization that at the time of their issuance would cause the indebtedness of the city or village represented by outstanding special assessment bonds that pledge the full faith and credit of the city or village for their payment, plus outstanding bonds issued pursuant to the provisions of this act, to exceed 12% of the assessed valuation of the taxable property in the city or village. The assessed valuation shall be that fixed by the last assessment roll of the city or village that has been reviewed by the board of review. All bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1957, Act 57, Eff. Sept. 27, 1957;—Am. 2002, Act 287, Imd. Eff. May 9, 2002.

141.374 Local improvement revolving fund; repayment of advances.

Sec. 4. A local improvement revolving fund established pursuant to the provisions of this act shall be a separate depository account of the city or village. Any local improvement revolving fund shall be used only for the purpose of advancing the costs, either in whole or in part, of any local improvement. Moneys advanced from the fund shall be repaid from the sale of special assessment bonds as authorized by law or charter or collections of special assessments on property specially benefited by any local improvement, the cost of which was advanced in whole or in part from the fund.

History: 1957, Act 57, Eff. Sept. 27, 1957.

141.375 Authority given by act.

Sec. 5. The authority hereby given shall be in addition to and not in derogation of any power existing in any city or village under any statutory or charter provision.

History: 1957, Act 57, Eff. Sept. 27, 1957.

BONDS OR NOTES FOR CAPITAL IMPROVEMENTS
Act 121 of 1969

AN ACT to authorize counties, cities, townships and villages to issue bonds or notes, and pledge deferred income from sale of capital assets, due and payable but which has not been received, for the payment of principal and interest thereon; and to authorize the county, city, township or village to pledge its full faith and credit for the payment of the bonds or notes.

History: 1969, Act 121, Imd. Eff. July 29, 1969.

The People of the State of Michigan enact:

141.381 Issuance of bonds and notes; resolution; purpose; pledges; use of proceeds; debt limitation; general obligations.

Sec. 1. Any county, city, township or village, by resolution adopted by a majority vote of the members elect of its legislative body may authorize the issuance of bonds or notes of the county, city, township or village for the purpose of raising funds to be used for capital improvements and pledge as security for the payment of the principal and interest on the bonds or notes part or all of the deferred income from the sale of its capital assets. Moneys realized from issuance of bonds or notes secured by pledge of the deferred income from sale of capital assets shall be used solely for capital improvements. The county, city, township or village may also pledge its full faith and credit for the prompt payment of principal and interest on any bonds or notes issued pursuant to this act. In no case may the county, city, township or village involved borrow in excess of 80% of the face value of the assets pledged. The bonds or notes shall be valid and binding general obligations of the county, city, township or village notwithstanding any invalidity or illegality in the contract of sale of capital assets pledged for payment thereof.

History: 1969, Act 121, Imd. Eff. July 29, 1969.

141.382 Form and execution of bonds or notes; principal and interest; maximum due in one year; due dates; tax exemptions.

Sec. 2. The bonds or notes authorized to be issued under this act shall be issued in the name of the county, city, township, or village and shall be executed in the manner provided by resolution of its legislative body. Bonds or notes issued under this act shall be negotiable instruments with the last maturity due not later than the year in which the final payment is due according to the contract of sale of capital assets. The maximum principal and interest falling due in any year shall not exceed income to be received during that year from the contract of sale of capital assets pledged for the payment of the bonds or notes plus any income due in prior years that will not be required for payment of principal or interest, or both, in prior years. The due date of principal and the first interest payment in each year shall be not less than 30 days subsequent to the estimated time of receipt of the payments on the contract for sale of capital assets pledged. The bonds and coupons and notes shall be exempt from taxation by this state or by any taxing authority within this state.

History: 1969, Act 121, Imd. Eff. July 29, 1969;—Am. 2002, Act 195, Imd. Eff. Apr. 29, 2002.

141.383 Bonds or notes subject to MCL 141.2101 to 141.2821.

Sec. 3. The bonds or notes shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 1969, Act 121, Imd. Eff. July 29, 1969;—Am. 1983, Act 52, Imd. Eff. May 16, 1983;—Am. 2002, Act 195, Imd. Eff. Apr. 29, 2002.

VALIDATION OF METROPOLITAN DISTRICT BONDS
Act 60 of 1959

AN ACT ratifying, validating and confirming all bonds issued by metropolitan districts and heretofore assumed by cities and ratifying, validating and confirming the assumption thereof by cities and authorizing cities to issue general obligation bonds to refund such bonds.

History: 1959, Act 60, Imd. Eff. June 5, 1959.

The People of the State of Michigan enact:

141.401 Metropolitan district bonds; assumption by cities; refunding bonds.

Sec. 1. All bonds heretofore issued by metropolitan districts of the state of Michigan and heretofore assumed by cities in the state of Michigan are hereby ratified, validated and confirmed notwithstanding any defects in the organization of any such metropolitan districts or in the proceedings authorizing the issuance and sale of such bonds, and the assumption of such bonds by cities is hereby ratified, validated and confirmed and such bonds are hereby declared to be the valid and legally binding obligations of such cities notwithstanding any defects in the proceedings pertaining to the assumption of such bonds by such cities, and notwithstanding the failure by such cities to comply with any prescribed statutory conditions to the assumption of such bonds; and all such cities are hereby authorized to issue general obligation bonds to refund such bonds at their stated maturity or at any redemption date.

History: 1959, Act 60, Imd. Eff. June 5, 1959.

BUDGET HEARINGS OF LOCAL GOVERNMENTS
Act 43 of 1963 (2nd Ex. Sess.)

AN ACT to provide for public hearings on budgets of local units of government.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

The People of the State of Michigan enact:

141.411 Local unit of government; definition.

Sec. 1. As used in this act “local unit” means a county, township, city, village, authority or school district empowered by the constitution or by law to prepare budgets of estimated expenditures and revenues.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

141.412 Local unit of government; public hearing on proposed budget; notice.

Sec. 2. A local unit shall hold a public hearing on its proposed budget. The local unit shall give notice of the hearing by publication in a newspaper of general circulation within the local unit at least 6 days before the hearing. The notice shall include the time and place of the hearing and shall state the place where a copy of the budget is available for public inspection. The notice shall also include the following statement printed in 11-point boldfaced type: “The property tax millage rate proposed to be levied to support the proposed budget will be a subject of this hearing.”.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963;—Am. 1995, Act 40, Imd. Eff. May 22, 1995.

141.413 Local unit of government; final adoption of budget; hearing; exception.

Sec. 3. Each local unit shall hold such public hearing prior to final adoption of its budget. Except for a local unit that has a fiscal year that begins before the convening of the county tax allocation board, a local unit that submits its budget to a county tax allocation board shall hold such hearing after its tax rate allocation has been fixed by such board.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963;—Am. 2006, Act 154, Eff. Mar. 30, 2007.

141.414 Local unit of government; changes in budget.

Sec. 4. Changes made in its budget by the governing body of a local unit subsequent to such public hearing shall not affect the validity of such budget.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

141.415 Local unit of government; public hearing on budget, charter, statute.

Sec. 5. Local units which provide for a public hearing before adoption of their budgets either in pursuance of charter provision or law shall hold a public hearing in accordance with such provision of charter or law which shall be deemed to be in a manner prescribed by law.

History: 1963, 2nd Ex. Sess., Act 43, Imd. Eff. Dec. 27, 1963.

UNIFORM BUDGETING AND ACCOUNTING ACT
Act 2 of 1968

AN ACT to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer, the attorney general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties for violation of certain requirements of this act; to provide for meeting the expenses authorized by this act; to provide a uniform budgeting system for local units; and to prohibit deficit spending by a local unit of government.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1996, Act 401, Eff. Dec. 18, 1996.

The People of the State of Michigan enact:

141.421 Uniform charts of accounts for local units; design; conformity to uniform standards; maintenance of local unit accounts; publication of standard operating procedures and forms; assistance, advice, or instruction; inadequacy of local unit; report; services of certified public accountant or state treasurer; expenses; payment; contract; monthly billings.

Sec. 1. (1) The state treasurer shall prescribe uniform charts of accounts for all local units of similar size, function, or service designed to fulfill the requirements of good accounting practices relating to general government. Such chart of accounts shall conform as nearly as practicable to the uniform standards as set forth by the governmental accounting standards board or by a successor organization that establishes national generally accepted accounting standards and is determined acceptable to the state treasurer. The official who by law or charter is charged with the responsibility for the financial affairs of the local unit shall insure that the local unit accounts are maintained and kept in accordance with the chart of accounts. The state treasurer may also publish standard operating procedures and forms for the guidance of local units in establishing and maintaining uniform accounting.

(2) A local unit may request the state treasurer to provide assistance, advice, or instruction in establishing or maintaining the uniform chart of accounts required by subsection (1).

(3) The state treasurer may provide assistance, advice, or instruction to a local unit to establish or maintain the uniform chart of accounts required by subsection (1) based on information from 1 or more of the following sources:

(a) Disclosure by the certified public accountant or the department of treasury in an audit report required by section 5 or 6 that the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(b) Disclosure by the department of treasury in a special examination report that the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(c) Disclosure in an audit report issued under section 5 or 6 that the records of the local unit are not auditable because the local unit has failed to establish or maintain the uniform chart of accounts required by subsection (1).

(d) Disclosure from another state agency.

(e) Department of treasury records indicate that the audit required under section 5 has not been performed or filed and is delinquent, and that the local unit is subject to the provisions of section 21 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

(4) The state treasurer, in performing the services under subsection (2) or (3), may make a determination that the local unit cannot adequately establish or maintain the uniform chart of accounts without additional assistance, advice, or instruction from the state treasurer. The state treasurer shall submit a written report of the findings and recommendations to the governing body of the local unit. The local unit shall retain, within 90 days after receipt of this report, the services of a certified public accountant or the state treasurer to perform the needed additional services and shall notify, by resolution of the governing body, the state treasurer of such action. Upon failure of the local unit to respond within the 90-day period, the state treasurer shall perform the necessary services to adequately establish or maintain the uniform chart of accounts.

(5) The state treasurer shall charge reasonable and necessary expenses, including per diem and travel expenses, to the local unit for services performed pursuant to subsections (2), (3), and (4), and the local unit shall make payment to the state treasurer for these expenses. The state treasurer shall execute a contract with

the local unit or provide monthly billings if a contract is not executed.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.421a Short title.

Sec. 1a. This act shall be known and may be cited as the “uniform budgeting and accounting act”.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980.

141.422 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 2a to 2d have the meanings ascribed to them in those sections.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1978, Act 621, Eff. Apr. 1, 1980.

141.422a Definitions; A, B.

Sec. 2a. (1) “Administrative officer” means an individual employed or otherwise engaged by a local unit to supervise a budgetary center.

(2) “Allotment” means a portion of an appropriation which may be expended or encumbered during a certain period of time.

(3) “Appropriation” means an authorization granted by a legislative body to incur obligations and to expend public funds for a stated purpose.

(4) “Budget” means a plan of financial operation for a given period of time, including an estimate of all proposed expenditures from the funds of a local unit and the proposed means of financing the expenditures. Budget does not include any of the following:

(a) A fund for which the local unit acts as a trustee or agent.

(b) An internal service fund.

(c) An enterprise fund.

(d) A capital project fund.

(e) A debt service fund.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.422b Definitions; B to D.

Sec. 2b. (1) “Budgetary center” means a general operating department of a local unit or any other department, institution, court, board, commission, agency, office, program, activity, or function to which money is appropriated by the local unit.

(2) “Capital outlay” means a disbursement of money which results in the acquisition of, or addition to, fixed assets.

(3) “Chief administrative officer” means any of the following:

(a) The manager of a village or, if a village does not employ a manager, the president of the village.

(b) The city manager of a city or, if a city does not employ a city manager, the mayor of the city.

(c) The superintendent of a local school district or, if the school district does not have a superintendent, the person having general administrative control of the school district.

(d) The superintendent of an intermediate school district or, if the school district does not have a superintendent, the person having general administrative control of the school district.

(e) The manager of a township or, if the township does not employ a manager, the supervisor of the township.

(f) The elected county executive or appointed county manager of a county; or if the county has not adopted an optional unified form of county government, the controller of the county appointed pursuant to section 13b of 1851 PA 156, MCL 46.13b; or if the county has not appointed a controller, an individual designated by the county board of commissioners of the county.

(g) The official granted general administrative control of an authority or organization of government established by law that may expend funds of the authority or organization.

(h) A person granted general administrative control of the public school academy by the board of directors of a public school academy established under part 6a of the revised school code, 1976 PA 451, MCL 380.501 to 380.507, or other person designated by the board of directors of the public school academy.

(4) “Deficit” means an excess of liabilities and reserves of a fund over its assets.

(5) “Derivative instrument or product” means either of the following:

(a) A contract or convertible security that changes in value in concert with a related or underlying security, future, or other instrument or index; or that obtains much of its value from price movements in a related or underlying security, future, or other instrument or index; or both.

(b) A contract or security, such as an option, forward, swap, warrant, or a debt instrument with 1 or more options, forwards, swaps, or warrants embedded in it or attached to it, the value of which contract or security is determined in whole or in part by the price of 1 or more underlying instruments or markets.

(6) "Derivative instrument or product" does not mean a fund created pursuant to the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118, or section 1223 of the revised school code, 1976 PA 451, MCL 380.1223.

(7) "Disbursement" means a payment in cash.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1996, Act 402, Imd. Eff. Oct. 21, 1996;—Am. 1996, Act 439, Imd. Eff. Dec. 18, 1996;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.422c Definitions; E to G.

Sec. 2c. (1) "Expenditure" means the cost of goods delivered or services rendered, whether paid or unpaid, including expenses, debt retirement not reported as a liability of the fund from which retired, or capital outlay.

(2) "General appropriations act" means the budget as adopted by the legislative body or as otherwise given legal effect pursuant to a charter provision in effect on the effective date of this section.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.422d Definitions; D to S.

Sec. 2d. (1) "Depository library" means a depository library designated under section 10 of the library of Michigan act, 1982 PA 540, MCL 397.20.

(2) "Legislative body" means any of the following:

(a) The council, commission, or other entity vested with the legislative power of a village.

(b) The council or other entity vested with the legislative power of a city.

(c) The board of education of a local school district.

(d) The board of education of an intermediate school district.

(e) The township board of a township.

(f) The county board of commissioners of a county.

(g) The board of county road commissioners of a county.

(h) The board of directors of a public school academy established under part 6a of the revised school code, 1976 PA 451, MCL 380.501 to 380.507.

(i) The official body to which is granted general governing powers over an authority or organization of government established by law that may expend funds of the authority or organization. As used in this act, legislative body does not include an intermunicipality committee established under 1957 PA 200, MCL 123.631 to 123.637.

(3) "Library of Michigan" means the library of Michigan created under section 3 of the library of Michigan act, 1982 PA 540, MCL 397.13.

(4) "Local unit" does not include an intermunicipality committee established under 1957 PA 200, MCL 123.631 to 123.637. Except as used in sections 14 to 20a, local unit means a village, city, or township or an authority or commission established by a county, village, city, or township resolution, motion, ordinance, or charter. As used in sections 14 to 20a, local unit means any of the following:

(a) A village.

(b) A city.

(c) A school district.

(d) An intermediate school district.

(e) A public school academy established under part 6a of the revised school code, 1976 PA 451, MCL 380.501 to 380.507.

(f) A township.

(g) A county.

(h) A county road commission.

(i) An authority or organization of government established by law that may expend funds of the authority or organization.

(5) "Revenue" means an addition to the assets of a fund that does not increase a liability, does not represent the recovery of an expenditure, does not represent the cancellation of a liability without a corresponding increase in any other liability or a decrease in assets, and does not represent a contribution of fund capital in enterprise or in internal service funds.

(6) "Surplus" means an excess of the assets of a fund over its liabilities and reserves.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1981, Act 78, Imd. Eff. June 30, 1981;—Am. 1996, Act 401, Eff. Dec. 18, 1996;—Am. 1999, Act 142, Imd. Eff. Oct. 22, 1999;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.423 Publication; hearings.

Sec. 3. The state treasurer, before the adoption of a uniform chart of accounts, shall provide for advance publication and for hearings thereon with an advisory committee selected by the state treasurer from the local units and from other interested or concerned groups. The uniform chart of accounts, when finally adopted, shall be published and made readily available to all interested persons.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.424 Annual financial report; contents; filing; extension; unauthorized investments prohibited; "pension" defined.

Sec. 4. (1) The chief administrative officer of each local unit shall make an annual financial report (local unit fiscal report) which shall be uniform for all local units of the same class.

(2) The annual financial report shall contain for each fiscal year, all of the following:

(a) An accurate statement in summarized form, showing the amount of all revenues from all sources, the amount of expenditures for each purpose, the amount of indebtedness, the fund balances at the close of each fiscal year, and any other information as may be required by law.

(b) A statement indicating whether there are derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end.

(c) If the statement under subdivision (b) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(d) A statement indicating whether there are derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(e) If the statement under subdivision (d) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(3) One copy of the annual financial report required by subsection (1) shall be filed with the state treasurer within 6 months after the end of the fiscal year of the local unit. The state treasurer shall prescribe the forms to be used by local units for preparation of the financial reports. The state treasurer may require that an annual financial report by the pension system for any defined benefit plan of the local unit be submitted in electronic format after timely notice by the state treasurer. The chief administrative officer of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. If the local unit of government requests an extension of the filing deadline, then the local unit of government must provide to the department of treasury the unadjusted year end trial balance reports, in a form and manner as prescribed by the department of treasury, to the department of treasury at the time the local unit of government requests the extension. The department of treasury shall post these unadjusted year end trial reports on the department's internet website if the extension is granted.

(4) This section does not authorize a local unit to make investments not otherwise authorized by law.

(5) For purposes of this section, "pension" includes a public employee health care fund as defined in the public employee health care investment fund act, 1999 PA 149, MCL 38.1211 to 38.1216.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982;—Am. 1983, Act 36, Imd. Eff. May 10, 1983;—Am. 1996, Act 439, Imd. Eff. Dec. 18, 1996;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001;—Am. 2002, Act 250, Imd. Eff. May 1, 2002;—Am. 2002, Act 729, Imd. Eff. Dec. 30, 2002.

141.424a Failure of local unit to report investments in derivative instruments or products.

Sec. 4a. (1) If a local unit fails to report investments in derivative instruments or products as required by section 4, the state treasurer may determine that the local unit cannot report the investments without assistance, advice, or instruction from the state treasurer. The state treasurer shall submit a written statement of the findings and recommendations to the legislative body of the local unit. Within 90 days after receipt of this statement, the local unit shall retain a certified public accountant or the state treasurer to report the investments in the manner required in section 4 and shall notify, by resolution of the legislative body, the state treasurer of the action. Upon failure of the local unit to respond within the 90-day period, the state treasurer shall report the investments.

(2) The state treasurer shall charge reasonable and necessary expenses, including per diem and travel expenses, to the local unit for services performed pursuant to subsection (1) and the local unit shall pay the state treasurer for these expenses. For payment of the expenses, the state treasurer shall either execute a contract with the local unit or bill the local unit on a monthly basis.

History: Add. 1996, Act 400, Eff. Dec. 18, 1996.

141.424b Schedule of derivative instruments and products; filing copies; Library of Michigan and depository libraries as depositories; retention of annual report by local unit.

Sec. 4b. (1) The state treasurer shall promptly file with the library of Michigan copies of a schedule of derivative instruments and products described in section 4(2)(c) or (e) and obtained under section 4 or section 4a. The treasurer shall file a sufficient number of copies to deposit 1 copy in the library of Michigan and 1 copy in each depository library.

(2) The library of Michigan and depository libraries shall serve as depositories for schedules of derivative instruments and products described in section 4(2)(c) or (e) in the manner required by sections 9 and 10 of the library of Michigan act, Act No. 540 of the Public Acts of 1982, being sections 397.19 and 397.20 of the Michigan Compiled Laws. The library of Michigan and each depository library shall promptly make a schedule of derivative instruments and products described in section 4(2)(c) or (e) available to the public.

(3) A local unit shall obtain and retain a copy of an annual financial report submitted under this act. A local unit or the state treasurer shall make an annual financial report prepared, owned, used, in the possession of, or retained by the local unit or state treasurer available for public inspection under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1996, Act 401, Eff. Dec. 18, 1996.

Compiler's note: For transfer of powers and duties of library of Michigan and state librarian, except pertaining to services for blind and physically handicapped and those related to census data functions, to department of education, see E.R.O. No. 2009-26, compiled at MCL 399.752.

141.425 Local units; audits.

Sec. 5. (1) A local unit having a population of less than 4,000 shall obtain an audit of its financial records, accounts, and procedures not less frequently than biennially. However, if any audit under this subsection discloses a material deviation by the local unit from generally accepted accounting practices or from applicable rules and regulations of a state department or agency or discloses any fiscal irregularity, defalcation, misfeasance, nonfeasance, or malfeasance, the department of treasury may require an audit to be conducted in the next year.

(2) A local unit having a population of 4,000 or more shall obtain an annual audit of its financial records, accounts, and procedures.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1996, Act 146, Imd. Eff. Mar. 25, 1996.

141.426 Certified public accountants; cost.

Sec. 6. Local units may retain certified public accountants to perform such audits. If any unit fails to provide for an audit, the state treasurer shall either conduct the audit or appoint a certified public accountant to perform it. The entire cost of any such audits will be borne by the local unit.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.427 Minimum auditing procedures and standards; form for report of auditing procedures; filing audit report and report of auditing procedures; time for filing; extension.

Sec. 7. (1) The state treasurer shall prescribe minimum auditing procedures and standards and these shall conform as nearly as practicable to generally accepted auditing standards established by the American institute of certified public accountants.

(2) A report of the auditing procedures applied in each audit shall be prepared on a form provided for this purpose by the state treasurer. The state treasurer may require that the audit report, or the report of auditing procedures, or both, that are required by this subsection to be filed with the state treasurer be filed in an electronic format prescribed by the state treasurer.

(3) One copy of every audit report and 1 copy of the report of auditing procedures applied shall be filed with the state treasurer.

(4) The copy of the audit report and the copy of the report of auditing procedures applied required by subsection (3) shall be filed with the state treasurer within 6 months after the end of the fiscal year of a local

unit for which an audit has been performed pursuant to section 5. The chief administrative officer of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. A chief administrative officer who requests an extension under this subsection shall, within 10 days of making the request, inform the governing body in writing of the requested extension.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1982, Act 451, Imd. Eff. Dec. 30, 1982;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.428 Contents of audit report.

Sec. 8. Every audit report shall do all of the following:

(a) State that the audit has been conducted in accordance with generally accepted auditing standards and with the standards prescribed by the state treasurer.

(b) State that financial statements in such reports have been prepared in accordance with generally accepted accounting principles and with applicable rules and regulations of any state department or agency. Any deviations from such principles, rules, or regulations shall be described.

(c) Disclose any material deviations by the local unit from generally accepted accounting practices or from applicable rules and regulations of any state department or agency.

(d) Disclose any fiscal irregularities, including but not limited to any deviations from the requirements of section 4; defalcations; misfeasance; nonfeasance; or malfeasance that came to the auditor's attention.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1996, Act 400, Eff. Dec. 18, 1996;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.429 Public inspection of audit reports.

Sec. 9. All audit reports submitted under this act shall be made available for public inspection.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.430 Orders and subpoenas.

Sec. 10. In connection with any audit and examination conducted under the provisions of this act, the state treasurer, or a deputy state treasurer, may issue subpoenas, direct the service thereof by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine such persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by the state treasurer or by a deputy state treasurer, in pursuance of the authority in them vested by provisions of this section, may be enforced upon their application to any circuit court by proceedings in contempt therein, as provided by law.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.431 Violations of act.

Sec. 11. If any audit or investigation conducted under this act discloses statutory violations on the part of any officer, employee or board of any local unit, a copy of such report shall be filed with the attorney general who shall review the report and cause to be instituted such proceeding against such officer, employee or board as he deems necessary. The attorney general, within 60 days after receipt of the report, may institute criminal proceedings as he deems necessary against such officer or employee, or direct that the criminal proceedings be instituted by the prosecuting attorney of the county in which the offense was committed. The attorney general or the prosecuting attorney shall institute civil action in any court of competent jurisdiction for the recovery of any public moneys, disclosed by any examination to have been illegally expended or collected and not accounted for; also for the recovery of any public property disclosed to have been converted and misappropriated.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.432 Verification of transactions.

Sec. 12. (1) For purposes of verifying any transactions disclosed by an audit or investigation, any person or firm authorized to conduct an audit under this act may ascertain the deposits, payments, withdrawals and balances on deposit in any bank account or with any contractor or with any other person having dealings with the local unit.

(2) A bank, contractor or person shall not be held liable for making available any of the information required under this act.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968.

141.433 Scope of examiner's authority; production of records; divulging confidential information.

Sec. 13. (1) Notwithstanding the confidentiality provisions of any tax laws, any authorized employee of the state treasurer, certified public accountant or firm of certified public accountants conducting an audit under this act shall have access to and authority to examine all books, accounts, reports, vouchers, correspondence files and other records, bank accounts and moneys or other property of any local unit excepting any records which were obtained from the United States internal revenue service under the federal state cooperative exchange agreement.

(2) An officer of a local unit upon demand of persons authorized under this act, shall produce all books, accounts, reports, vouchers, correspondence files and other records, bank accounts and moneys or other property of the local unit under audit or investigation and shall truthfully answer all questions related thereto.

(3) The liabilities and penalties provided by all specific confidentiality statutes for divulging confidential information shall be applicable to all persons authorized to make an audit under this act.

History: 1968, Act 2, Imd. Eff. Feb. 20, 1968;—Am. 1971, Act 91, Eff. Mar. 30, 1972.

141.434 Budget; preparation, presentation, and control of expenditures; information; transmitting recommended budget to legislative body; suggested general appropriations act; consideration of recommended budget; furnishing information to legislative body; public hearing.

Sec. 14. (1) Unless otherwise provided by law, charter, resolution, or ordinance, the chief administrative officer shall have final responsibility for budget preparation, presentation of the budget to the legislative body, and the control of expenditures under the budget and the general appropriations act.

(2) Unless another person is designated by charter, the chief administrative officer in each local unit shall prepare the recommended annual budget for the ensuing fiscal year in the manner provided in sections 15 to 20a. The budgetary centers of the local unit shall provide to the chief administrative officer information which the chief administrative officer considers necessary and essential to the preparation of a budget for the ensuing fiscal period for presentation to the local unit's legislative body. Each administrative officer or employee of a budgetary center shall comply promptly with a request for information which the chief administrative officer makes.

(3) The chief administrative officer shall transmit the recommended budget to the legislative body according to an appropriate time schedule developed by the local unit. The schedule shall allow adequate time for review and adoption by the legislative body before commencement of the budget year. The recommended budget, when transmitted by the chief administrative officer, shall be accompanied by a suggested general appropriations act to implement the budget. The suggested general appropriations act shall fulfill the requirements of section 16.

(4) The recommended budget transmitted by the chief administrative officer shall be considered by the legislative body.

(5) The chief administrative officer shall furnish to the legislative body information the legislative body requires for proper consideration of the recommended budget. Before final passage of a general appropriations act by the legislative body, a public hearing shall be held as required by 1963 (2nd Ex Sess) PA 43, MCL 141.411 to 141.415, and the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.435 Recommended budget; contents; limitation on total estimated expenditures.

Sec. 15. (1) The recommended budget shall include at least the following:

(a) Expenditure data for the most recently completed fiscal year and estimated expenditures for the current fiscal year.

(b) An estimate of the expenditure amounts required to conduct, in the ensuing fiscal year, the government of the local unit, including its budgetary centers.

(c) Revenue data for the most recently completed fiscal year and estimated revenues for the current fiscal year.

(d) An estimate of the revenues, by source of revenue, to be raised or received by the local unit in the ensuing fiscal year.

(e) The amount of surplus or deficit that has accumulated from prior fiscal years, together with an estimate of the amount of surplus or deficit expected in the current fiscal year. The inclusion of the amount of an authorized debt obligation to fund a deficit shall be sufficient to satisfy the requirement of funding the amount of a deficit estimated under this subdivision.

(f) An estimate of the amounts needed for deficiency, contingent, or emergency purposes.

(g) Other data relating to fiscal conditions that the chief administrative officer considers to be useful in considering the financial needs of the local unit.

(2) The total estimated expenditures, including an accrued deficit, in the budget shall not exceed the total estimated revenues, including an available unappropriated surplus and the proceeds from bonds or other obligations issued under the fiscal stabilization act or the balance of the principal of these bonds or other obligations.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1981, Act 77, Imd. Eff. June 30, 1981;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.436 General appropriations act; requirements; line items not mandated; taxation; limitation on estimated total expenditure.

Sec. 16. (1) Unless another method for adopting a budget is provided by a charter provision in effect on April 1, 1980, the legislative body of each local unit shall pass a general appropriations act for all funds except trust or agency, internal service, enterprise, debt service or capital project funds for which the legislative body may pass a special appropriation act.

(2) The general appropriations act shall set forth the total number of mills of ad valorem property taxes to be levied and the purposes for which that millage is to be levied. The amendatory act that added this subsection shall be known and may be cited as "the truth in budgeting act".

(3) The general appropriations act shall set forth the amounts appropriated by the legislative body to defray the expenditures and meet the liabilities of the local unit for the ensuing fiscal year, and shall set forth a statement of estimated revenues, by source, in each fund for the ensuing fiscal year.

(4) The general appropriations act shall be consistent with uniform charts of accounts prescribed by the state treasurer or, for local school districts and intermediate school districts, by the state board of education.

(5) This act shall not be interpreted to mandate the development or adoption by a local unit of a line-item budget or line-item general appropriations act.

(6) The legislative body shall determine the amount of money to be raised by taxation necessary to defray the expenditures and meet the liabilities of the local unit for the ensuing fiscal year, shall order that money to be raised by taxation, within statutory and charter limitations, and shall cause the money raised by taxation to be paid into the funds of the local unit.

(7) Except as otherwise permitted by section 102 of the state school aid act of 1979, 1979 PA 94, MCL 388.1702, or by other law, the legislative body shall not adopt a general appropriations act or an amendment to that act which causes estimated total expenditures, including an accrued deficit, to exceed total estimated revenues, including an available surplus and the proceeds from bonds or other obligations issued under the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011, or the balance of the principal of these bonds or other obligations.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1981, Act 77, Imd. Eff. June 30, 1981;—Am. 1981, Act 78, Imd. Eff. June 30, 1981;—Am. 1995, Act 41, Imd. Eff. May 22, 1995;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.437 General appropriations act; amendment; reports; recommendations.

Sec. 17. (1) Except as otherwise provided in section 19, a deviation from the original general appropriations act shall not be made without amending the general appropriations act. Subject to section 16(2), the legislative body of the local unit shall amend the general appropriations act as soon as it becomes apparent that a deviation from the original general appropriations act is necessary and the amount of the deviation can be determined. An amendment shall indicate each intended alteration in the purpose of each appropriation item affected by the amendment. The legislative body may require that the chief administrative officer or fiscal officer provide it with periodic reports on the financial condition of the local unit.

(2) If, during a fiscal year, it appears to the chief administrative officer or to the legislative body that the actual and probable revenues from taxes and other sources in a fund are less than the estimated revenues, including an available surplus upon which appropriations from the fund were based and the proceeds from bonds or other obligations issued under the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011, or the balance of the principal of these bonds or other obligations, the chief administrative officer or fiscal officer shall present to the legislative body recommendations which, if adopted, would prevent expenditures from exceeding available revenues for that current fiscal year. The recommendations shall include proposals for reducing appropriations from the fund for budgetary centers in a manner that would cause the total of appropriations to not be greater than the total of revised estimated revenues of the fund, or proposals for measures necessary to provide revenues sufficient to meet expenditures of the fund, or both. The recommendations shall recognize the requirements of state law and the provisions of collective bargaining agreements.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 1981, Act 77, Imd. Eff. June 30, 1981;—Am. 1995, Act 41, Imd. Eff. May 22, 1995;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.438 Incurring debts or obligations; dividing appropriations into allotments; expenditures; application or division of money; restrictions on delegation of duties.

Sec. 18. (1) A member of the legislative body, chief administrative officer, administrative officer, or employee of the local unit shall not create a debt or incur a financial obligation on behalf of the local unit unless the debt or obligation is permitted by law.

(2) The chief administrative officer may cause the appropriations made by the legislative body for the local unit and its budgetary centers to be divided into allotments if the allotments are based upon the periodic requirements of the local unit and its budgetary centers.

(3) Except as otherwise provided in section 19, an administrative officer of the local unit shall not incur expenditures against an appropriation account in excess of the amount appropriated by the legislative body. The chief administrative officer, an administrative officer, or an employee of the local unit shall not apply or divert money of the local unit for purposes inconsistent with those specified in the appropriations of the legislative body.

(4) No duties shall be delegated to the chief administrative officer that diminish any charter or statutory responsibilities of an elected or appointed official.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.439 Expenditure of funds; transfers within appropriations.

Sec. 19. (1) A member of the legislative body, the chief administrative officer, an administrative officer, or an employee of a local unit shall not authorize or participate in the expenditure of funds except as authorized by a general appropriations act. An expenditure shall not be incurred except in pursuance of the authority and appropriations of the legislative body of the local unit.

(2) The legislative body in a general appropriations act may permit the chief administrative officer to execute transfers within limits stated in the act between appropriations without the prior approval of the legislative body.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.440 Violation; filing; report; review and action by attorney general; civil action for recovery of funds and public property.

Sec. 20. A violation of sections 17 to 19 by the chief administrative officer, an administrative officer, employee, or member of the legislative body of the local unit disclosed in an audit of the financial records and accounts of the local unit in the absence of reasonable procedures in use by the local unit to detect such violations shall be filed with the state treasurer and reported by the state treasurer to the attorney general. For local and intermediate school districts, the report of a violation shall be filed with the state superintendent of public instruction instead of the state treasurer. The attorney general shall review the report and initiate appropriate action against the chief administrative officer, fiscal officer, administrative officer, employee, or member of the legislative body. For the use and benefit of the local unit, the attorney general or prosecuting attorney may institute a civil action in a court of competent jurisdiction for the recovery of funds of a local unit, disclosed by an examination to have been illegally expended or collected as a result of malfeasance and not accounted for as provided in sections 17 to 19, and for the recovery of public property disclosed to have been converted or misappropriated.

History: Add. 1978, Act 621, Eff. Apr. 1, 1980;—Am. 2000, Act 493, Imd. Eff. Jan. 11, 2001.

141.440a Manuals, forms, and operating procedures; training and educational programs.

Sec. 20a. (1) The department of treasury shall publish suggested manuals, forms, and operating procedures which may be used by local units in complying with this act. These manuals, forms, and procedures shall be designed to account for the various kinds and sizes of local units, except that the suggested manuals, forms, and operating procedures which may be used by intermediate school districts and local school districts shall be developed by the superintendent of public instruction and shall be promulgated by the superintendent of public instruction pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) The suggested manuals, forms, and operating procedures described in subsection (1) shall be developed by an advisory committee selected by the department of treasury composed of persons from the department of education, other interested state agencies, local units, associations of local units, and other interested or concerned groups.

(3) The department of treasury shall provide or cooperate in the provision of training and educational programs to assist local units to comply with this act.

History: Add. 1978, Act 621, Eff. Apr. 1, 1979.

BUDGET STABILIZATION FUND
Act 30 of 1978

AN ACT to provide for the creation and use of budget stabilization funds by counties, cities, villages, and townships.

History: 1978, Act 30, Imd. Eff. Feb. 24, 1978;—Am. 1980, Act 192, Imd. Eff. July 8, 1980.

The People of the State of Michigan enact:

141.441 Definitions.

Sec. 1. As used in this act:

(a) "Fund" means a budget stabilization fund.

(b) "Municipality" means a county, city, village, or township.

History: 1978, Act 30, Imd. Eff. Feb. 24, 1978;—Am. 1980, Act 192, Imd. Eff. July 8, 1980.

141.442 Budget stabilization fund; creation.

Sec. 2. The governing body of a municipality by an ordinance adopted by a 2/3 vote of the members elected and serving may create a budget stabilization fund.

History: 1978, Act 30, Imd. Eff. Feb. 24, 1978.

141.443 Budget stabilization fund; appropriation; additional taxes prohibited; limitation; investments; disposition of excess money.

Sec. 3. (1) Each fiscal year following the fiscal year in which a fund is created, the governing body of the municipality which created the fund may appropriate by an ordinance or resolution adopted by a 2/3 vote of the members elected and serving, all or part of a surplus in the general fund resulting from an excess of revenue in comparison to expenses, to the fund.

(2) A municipality shall not impose additional taxes producing revenue in excess of that needed for its estimated budget in order to provide for money to be appropriated to the fund.

(3) The amount of money in the fund shall not exceed either 15% of the municipality's most recent general fund budget, as originally adopted, or 15% of the average of the municipality's 5 most recent general fund budgets, as amended, whichever is less.

(4) The money in the fund may be invested as provided by law with the earnings of the fund to be returned to the municipality's general fund.

(5) If the money in the fund exceeds that permitted in subsection (3), the excess money shall be appropriated in the municipality's next general fund budget, but shall not be appropriated to the fund.

History: 1978, Act 30, Imd. Eff. Feb. 24, 1978.

141.444 Budget stabilization fund; purposes; sufficiency of municipality's revenue.

Sec. 4. (1) Money in the budget stabilization fund may be appropriated by an ordinance or resolution adopted by a 2/3 vote of the members elected and serving of the governing body of the municipality which created the fund for the following purposes:

(a) To cover a general fund deficit, when the municipality's annual audit reveals such a deficit.

(b) To prevent a reduction in the level of public services or in the number of employees at any time in a fiscal year when the municipality's budgeted revenue is not being collected in an amount sufficient to cover budgeted expenses.

(c) To prevent a reduction in the level of public services or in the number of employees when in preparing the budget for the next fiscal year the municipality's estimated revenue does not appear sufficient to cover estimated expenses.

(d) To cover expenses arising because of a natural disaster, including a flood, fire, or tornado. However, if federal or state funds are received to offset the appropriations from the fund, that money shall be returned to the fund.

(2) In determining whether a municipality's revenue is not sufficient to cover its expenses, a reduction in the amount of money received for the fiscal year from any source in comparison to the amount of money received for the previous fiscal year, including a reduction in the allocation of state tax money, shall be considered.

History: 1978, Act 30, Imd. Eff. Feb. 24, 1978.

141.445 Budget stabilization fund; prohibitions.

Sec. 5. The money in the budget stabilization fund shall not be appropriated for the acquisition, construction, or alteration of a facility as part of a general capital improvements program.

History: 1978, Act 30, Imd. Eff. Feb. 24, 1978;—Am. 1980, Act 192, Imd. Eff. July 8, 1980.

PURCHASE OF FIRE FIGHTING EQUIPMENT
Act 205 of 1964

AN ACT authorizing the purchase by municipalities of fire trucks, fire fighting apparatus and equipment on executory title retaining contracts and under chattel mortgage financing.

History: 1964, Act 205, Eff. Aug. 28, 1964.

The People of the State of Michigan enact:

141.451 Fire trucks, fire fighting apparatus and equipment; purchase by municipalities; title retaining contract; chattel mortgage.

Sec. 1. The legislative body of any county, city, village, township, or other local unit of government may purchase on executory title retaining contracts, or finance purchases by chattel mortgages as security for the purchase price, any fire trucks and fire fighting apparatus and equipment and pay for it out of the general fund of the municipality. However, contracts or chattel mortgages shall not provide for payments for longer than the estimated period of usefulness of the property being purchased and in no event for longer than 6 years. Contracts and chattel mortgages, and the purchase of property under this section, are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, but are subject to 1933 PA 99, MCL 123.721 to 123.723.

History: 1964, Act 205, Eff. Aug. 28, 1964;—Am. 2002, Act 288, Imd. Eff. May 9, 2002.

HEALTH AND SAFETY FUND ACT
Act 264 of 1987

AN ACT to provide for the creation of the health and safety fund; to provide for the deposit of certain money in that fund; to provide for the distribution of the money in that fund and to limit its use; to prescribe the powers and duties of certain state officials; and to provide for an appropriation.

History: 1987, Act 264, Eff. Apr. 11, 1988.

The People of the State of Michigan enact:

141.471 Short title.

Sec. 1. This act shall be known and may be cited as the "health and safety fund act".

History: 1987, Act 264, Eff. Apr. 11, 1988.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the State Budget Director under the State Revenue Sharing Act of 1971 and the Health and Safety Fund Act from the State Budget Director, within the Department of Management and Budget, to the State Treasurer, within the Department of Treasury, see E.R.O. No. 1993-6, compiled at MCL 141.991 of the Michigan Compiled Laws.

141.472 Definitions.

Sec. 2. As used in this act:

(a) "Distribution" means the amount of money a county receives under sections 4 and 5.

(b) "Fund" means the health and safety fund created in section 3.

(c) "Jail facility" means a jail, holding cell, holding center, or lockup as those terms are defined in section 62 of Act No. 232 of the Public Acts of 1953, being section 791.262 of the Michigan Compiled Laws.

(d) "Juvenile facility" means a county facility or an institution operated as an agency of the county or the juvenile division of the probate court for the housing or detention of juveniles.

(e) "Local health department" means that term as defined in section 1105 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.1105 of the Michigan Compiled Laws.

History: 1987, Act 264, Eff. Apr. 11, 1988.

141.473 Health and safety fund; creation; deposits.

Sec. 3. (1) The health and safety fund is created in the state treasury.

(2) The state treasurer shall credit the health and safety fund with deposits of proceeds from the excise tax on cigarettes under section 12(3)(a) of the tobacco products tax act, 1993 PA 327, MCL 205.432.

History: 1987, Act 264, Eff. Apr. 11, 1988;—Am. 1998, Act 529, Imd. Eff. Jan. 12, 1999.

141.474 Distribution from fund generally.

Sec. 4. The department of management and budget upon authorization by the state treasurer shall cause to be distributed from the health and safety fund the total amount available in the 1987-88 fiscal year to each county that had a patient care management system in the 1986-87 fiscal year. The distribution under this section shall be used only for the following:

(*i*) To pay outstanding obligations of the county for services rendered before March 1, 1984 under the resident county hospitalization program, the community mental health shared management and state institutions programs, and the state ward charge-back program. Distributions under this subparagraph shall be made as necessary to satisfy the obligation of the county.

(*ii*) For the repayment of principal on any loans made to the county under the emergency municipal loan act, Act No. 243 of the Public Acts of 1980, being sections 141.931 to 141.942 of the Michigan Compiled Laws. The distribution shall be made as necessary to satisfy the obligations of the county.

History: 1987, Act 264, Eff. Apr. 11, 1988.

141.475 Distribution from fund; amounts.

Sec. 5. The state treasurer shall cause to be distributed from the health and safety fund the following amounts in the 1988-89 fiscal year and in each following fiscal year:

(a) One-fourth of the collections deposited in the fund under section 3(2) shall be used for indigent volume adjusters for hospitals within the medicaid program.

(b) After the distribution in subdivision (a), $16,000,000.00 of the amount deposited in the fund under section 3(2) shall be distributed as follows:

(*i*) Except as provided in subparagraph (*iii*), to a county that received a loan authorized under section 3(2) or (3) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, to pay outstanding obligations of the county; for the repayment of principal and interest on any loans made to the county under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942; and for the payment of principal, premium, if any, and interest due during a fiscal year on bonds issued by that county under the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011. The distributions under this subparagraph shall be made as necessary and only to the extent necessary to satisfy the obligations of the county.

(*ii*) Except as provided in subparagraph (*iii*), to the extent that $16,000,000.00 is no longer necessary to satisfy the obligations under subparagraph (*i*), a portion of the amount not required for satisfaction of obligations shall be distributed to each county that receives or has received a loan authorized under section 3(2) or (3) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, in an amount determined by multiplying the amount available for distribution under this subparagraph by a fraction, the numerator of which is the population of the county receiving the distribution and the denominator of which is the total population of the state according to the most recent decennial census. The distribution under this subparagraph shall be made at the same times and shall be used, subject to section 6, for the same purposes described in subdivision (c). The remaining amount available for distribution under this subparagraph shall be used on a per capita basis to offset the cost to the state of the assumption of the financing of the state court system in the counties not receiving a distribution under this subparagraph.

(*iii*) In the 2008-2009 fiscal year through the 2014-2015 fiscal year, $16,000,000.00 of the amount deposited in the fund under section 3(2) shall be transferred to and deposited in the convention facility development fund created under the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, for distribution and use only in the manner and for the purposes stated in that act and no amount shall be distributed under subparagraph (*i*) or (*ii*). If the transfer or lease of a qualified convention facility to a metropolitan authority takes place as provided in the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379, then in the 2015-2016 fiscal year through the 2038-2039 fiscal year, $15,000,000.00 of the amount deposited in the fund under section 3(2) shall be transferred to and deposited in the convention facility development fund created under the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, for distribution and use only in the manner and for the purposes stated in that act and $1,000,000.00 shall be distributed under subparagraphs (*i*) and (*ii*). If the transfer and lease of a qualified convention facility to an authority is disapproved and the authority is dissolved under section 19(1) of the regional convention facility authority act, 2008 PA 554, MCL 141.1369, then in the 2015-2016 fiscal year through the 2029-2030 fiscal year, $15,000,000.00 of the amount deposited in the fund under section 3(2) shall be transferred to and deposited in the convention facility development fund created under the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, for distribution and use only in the manner and for the purposes stated in that act and $1,000,000.00 shall be distributed under subparagraphs (*i*) and (*ii*).

(c) The remaining amount deposited in the fund under section 3(2) not distributed under subdivisions (a) and (b) shall be distributed to each county that does not receive and has never received a loan authorized under section 3(2) or (3) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, on a per capita basis according to the ratio that the population of the county receiving the distribution under this subdivision, according to the most recent decennial census, bears to the total population of all counties receiving distribution under this subdivision, according to the most recent decennial census. A distribution under this subdivision shall be made each February, May, August, and November from the collections that were deposited in the fund under section 3(2) in the immediately preceding calendar quarter. Subject to section 6, 12/17 of the distribution under this subdivision shall be distributed to each local health department as defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105, in the county receiving the distribution on a per capita basis, based on the most recent decennial census, to be used only for public health prevention programs and services. This distribution is in addition to and is not intended as a replacement for any other state or county payments to these health departments. This distribution satisfies the requirements of former section 7a(3) of 1947 PA 265. The remaining 5/17 of the distribution shall be used only for 1 or more of the following:

(*i*) The operation, maintenance, or expansion of an existing county jail facility or juvenile facility.

(*ii*) The acquisition, construction, and equipping of a new jail facility or juvenile facility.

(*iii*) Court operations.

History: 1987, Act 264, Eff. Apr. 11, 1988;—Am. 1998, Act 529, Imd. Eff. Jan. 12, 1999;—Am. 2008, Act 586, Imd. Eff. Jan. 20, 2009;—Am. 2009, Act 60, Imd. Eff. July 2, 2009.

141.476 Distribution under MCL 141.475(b)(ii) and 141.475(c).

Sec. 6. A distribution to a county under section 5(b)(*ii*) and 5(c) shall be included for purposes of calculations required to be made by section 24e of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.24e of the Michigan Compiled Laws. If the governing body of a county approves the additional millage rate under section 24e of the general property tax act, Act No. 206 of the Public Acts of 1893, that is due to distributions under section 5(b)(*ii*) and 5(c), then the distributions under section 5(b)(*ii*) and 5(c) shall be used for the purposes specified in that section.

History: 1987, Act 264, Eff. Apr. 11, 1988.

141.477 Withholding or assignment of distribution.

Sec. 7. The state treasurer may withhold from a county and a county may assign a distribution to offset what that county owes for outstanding obligations for services rendered before March 1, 1984 under the resident county hospitalization program, the community mental health shared management and state institutions programs, or the state ward charge-back program or for the repayment of principal and interest, if any, on a loan made to the county under the emergency municipal loan act, Act No. 243 of the Public Acts of 1980, being sections 141.931 to 141.942 of the Michigan Compiled Laws, or on a bond issue under the fiscal stabilization act, Act No. 80 of the Public Acts of 1981, being sections 141.1001 to 141.1011 of the Michigan Compiled Laws.

History: 1987, Act 264, Eff. Apr. 11, 1988.

141.478 Appropriations.

Sec. 8. (1) There is hereby appropriated from the health and safety fund an amount necessary to make the distributions under section 4.

(2) Beginning in the 1988-89 fiscal year and for each fiscal year thereafter, the legislative shall appropriate an amount necessary to make the distributions under this act.

History: 1987, Act 264, Eff. Apr. 11, 1988.

141.479 Conditional effective date.

Sec. 9. This act shall not take effect unless all of the following bills of the 84th Legislature are enacted into law:

(a) Senate Bill No. 624.
(b) Senate Bill No. 625.
(c) Senate Bill No. 571.
(d) House Bill No. 4452.

History: 1987, Act 264, Eff. Apr. 11, 1988.

CITY INCOME TAX ACT
Act 284 of 1964

AN ACT to permit the imposition and collection by cities of an excise tax levied on or measured by income; to permit the collection and administration of the tax by the state; to provide the procedure including referendums for, and to require the adoption of a prescribed uniform city income tax ordinance by cities desiring to impose and collect such a tax; to limit the imposition and collection by cities and villages of excise taxes levied on or measured by income; to prescribe the powers and duties of certain state and municipal agencies, departments, and officials; to establish the city income tax trust fund; to provide for appeals; and to prescribe penalties and provide remedies.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1996;—Am. 1998, Act 156, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

CHAPTER 1

GENERAL PROVISIONS

141.501 City income tax act; short title.

Sec. 1. This act shall be known and may be cited as the "city income tax act".

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.502 Income tax; prohibited to villages; uniform city income tax ordinance; prior ordinance.

Sec. 2. No village shall impose and collect any excise tax levied on or measured by income after January 1, 1964. Except as otherwise provided in this section, no city shall impose an excise tax levied on or measured by income until the lawful adoption by the city of the entire uniform city income tax ordinance as hereinafter set forth. No city shall impose and collect such an excise tax prior to January 1, 1965, except that a city which on January 1, 1964 had in effect a valid ordinance levying and imposing such an excise tax may continue to levy and impose the tax under such ordinance until the uniform city income tax ordinance becomes effective in such city, but in no case shall such ordinance or any other income tax ordinance, in effect in such city prior to the effective date of the uniform city income tax ordinance, continue in effect later than December 31, 1964. The enforcement, collection and refund provisions with respect to liabilities incurred under such prior income tax ordinance shall continue in effect for the period provided for in such prior ordinance.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.502a Imposition of excise tax; condition.

Sec. 2a. Beginning January 1, 1995, a city shall not impose an excise tax on income under this act unless at least 1 of the following applies:

(a) The city had in effect on January 1, 1995 an excise tax on income under this act.

(b) The imposition of an excise tax on income under this act is approved by the qualified and registered electors of the city.

History: Add. 1995, Act 234, Imd. Eff. Dec. 19, 1995.

141.503 Excise tax on income; levy, assessment, and collection; rates; certification of conditions; adoption, rescission, or amendment of uniform city income tax ordinance; petitions for referendum election; submitting question to city electors; election procedures; effective date of ordinance; delay; applicability; end of tax year; annualization of rates; definitions.

Sec. 3. (1) The governing body of a city, by a lawfully adopted ordinance that incorporates by reference the uniform city income tax ordinance set forth in chapter 2, may levy, assess, and collect an excise tax on income as provided in the ordinance. The ordinance shall state the rate of the tax which shall be the rate authorized by 1 of the following:

(a) The uniform city income tax ordinance under section 11 of chapter 2.

(b) Subsection (2).

(c) Section 3a, 3b, or 3c of this chapter.

(2) Except as otherwise provided in subsections (3), (4), and (5), in a city with a population of more than 750,000, the governing body may levy and collect a tax at a rate to be determined from time to time, that rate to be not more than 2% on corporations and the following maximum tax rates on resident individuals and

nonresident individuals for the following years:

(a) Before July 1, 1999, 3.00% on resident individuals and 1.50% on nonresident individuals.

(b) Beginning July 1, 1999 and each July 1 after 1999, except for 2008 and 2009, the maximum tax rate under this subsection on resident individuals shall be reduced by 0.1 until the rate on resident individuals is 2.0%. The tax rate imposed on nonresident individuals shall be 50% of the tax rate imposed on resident individuals each year.

(c) Notwithstanding any other provision of this section, for the 2008 and 2009 calendar years, the city shall impose the same tax rate on resident individuals and nonresident individuals as the city had imposed for the 2007 calendar year.

(3) If any 3 of the following conditions exist in a city with a population of 750,000 or more, the city may apply to the state administrative board for certification that those conditions exist and the maximum tax rate under subsection (2)(b) shall not be further reduced as provided in subsections (4) and (5):

(a) Funds have been withdrawn from the city's budget stabilization fund for 2 or more consecutive city fiscal years or there is a balance of zero in the city's budget stabilization fund.

(b) The city's income tax revenue growth rate is 0.95 or less.

(c) The local tax base growth rate is 80% or less of the statewide tax base growth rate.

(d) The city's unemployment rate is 10% or higher according to the most recent statistics available from the Michigan jobs commission.

(4) If the state administrative board certifies within 60 days of application that any 3 of the conditions set forth under subsection (3) are met, the maximum tax rate under subsection (2) shall not be further reduced from the date of the state administrative board's certification until the July 1 following the expiration of 1 year after the state administrative board's certification unless the city applies for certification that the conditions continue to exist. Before the expiration of the certification, the city may apply to the state administrative board to certify that the conditions continue to exist and if the state administrative board so certifies, the certification may continue until the July 1 following the expiration of 1 year after the state administrative board's certification that the conditions continue to exist. The city may continue to apply for certification until the conditions under subsection (3) no longer exist.

(5) Notwithstanding any other provision of this section, if on July 1 the maximum tax rate on resident individuals is reduced under subsection (2) after a year or years in which the maximum tax rate was not reduced because of subsections (3) and (4), the maximum tax rate on resident individuals shall be the maximum tax rate in effect on June 30 of that year reduced by 0.1 and the rate on nonresident individuals shall be 50% of the rate imposed on resident individuals. On each subsequent July 1, subsection (2) applies to the maximum tax rates, subject to subsections (3) and (4).

(6) The governing body of a city may adopt the uniform city income tax ordinance with the alternative sections as set forth in chapter 3 instead of the similarly numbered sections as set forth in chapter 2. The uniform city income tax ordinance may be lawfully adopted or rescinded by the governing body at any time. The adoption of an ordinance is effective on and after January 1 or July 1 following adoption of the ordinance, as specified in the ordinance, but an ordinance shall not become effective earlier than 45 days after adoption or until approved by the electors if a referendum petition is filed as authorized in this act or a referendum is otherwise required. The rescission of an ordinance shall become effective on the following December 31. The ordinance may be rescinded at any time by the governing body in the same manner in which it was adopted and with appropriate enforcement, collection, and refund provisions with respect to liabilities incurred prior to the effective date of the rescission of the ordinance. The ordinance shall not be amended except as provided by the legislature. A city may amend the ordinance to change the tax rate to a rate authorized by this act.

(7) Petitions for a referendum election on the question of adopting an ordinance adopted by the governing body may be filed with the city clerk not later than the sixth Monday following the adoption of the ordinance. The petitions shall be signed by a number of registered electors of the city equal to at least 10%, but not more than 20%, of the registered electors of the city voting in the last general municipal election prior to the adoption of the ordinance by the governing body. If proper petitions are filed, the question of adopting the ordinance shall be submitted by the governing body to the city electors at the next primary or general election or at a special election called for the purpose, in any case held not less than 45 days nor more than 90 days after the clerk has reported the filing of the referendum petition to the city's governing body. The checking of names on the petitions, the counting, canvassing, and return of the votes on the question, and other procedures for the election shall be as provided by law or charter. Upon a favorable vote of the city electors, the ordinance shall be effective as specified in the ordinance which may be amended by the governing body of the city following the election to specify July 1 or January 1 as the effective date of the ordinance, if the effective date originally specified in the ordinance is considered impractical or inconvenient for any reason.

The provisions in this section for a referendum election, and for delaying the effective date of the ordinance if petitions for a referendum are filed, are not applicable to a city that on January 1, 1964 had in effect a valid ordinance levying and imposing an excise tax levied on or measured by income. Notwithstanding any other provision of this act, if an ordinance becomes effective on any date other than January 1, each tax year shall end on December 31, and the provisions of the ordinance based on a full tax year are modified accordingly to be applicable to the partial tax year.

(8) The city shall annualize the rates under this section as necessary.

(9) As used in this section:

(a) "Consumer price index" means the Detroit consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics, and as certified by the state treasurer.

(b) "Income tax revenue growth rate" means a number the numerator of which is the income tax collections of the city for the city fiscal year immediately preceding the city's application under subsection (3) and the denominator of which is the product of the income tax collections of the city for the city fiscal year immediately preceding the city fiscal year used to determine the numerator multiplied by 1 plus the corresponding percentage change in the average consumer price index for the calendar year ending in the city fiscal year used to determine the numerator.

(c) "Local tax base growth rate" means the total taxable value of real property and personal property in the city for the most recent year for which data is available divided by the total taxable value of real property and personal property in the city for the second year immediately preceding the most recent year for which the data is available.

(d) "Statewide tax base growth rate" means the total taxable value of real property and personal property in the state for the most recent year for which the data is available divided by the total taxable value of real property and personal property in the state for the second year immediately preceding the most recent year for which the data is available.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1967, Act 260, Eff. Nov. 2, 1967;—Am. 1968, Act 307, Imd. Eff. July 1, 1968;—Am. 1969, Act 42, Imd. Eff. July 17, 1969;—Am. 1970, Act 149, Imd. Eff. Aug. 1, 1970;—Am. 1981, Act 60, Imd. Eff. June 5, 1981;—Am. 1987, Act 223, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 520, Eff. Mar. 30, 1989;—Am. 1998, Act 500, Eff. Jan. 12, 1999;—Am. 2007, Act 209, Imd. Eff. Dec. 27, 2007.

141.503a Specific rates to be levied by city; establishment; limitations; increase in tax rate; approval; resolution; financial management consultant; duties; monitoring and reporting; termination of consultant services; recommendations of local emergency financial assistance loan board.

Sec. 3a. (1) The specific rates to be levied by a city on corporations, resident individuals, and nonresident individuals shall be established within the applicable limitations allowed under this section and section 3 of this chapter in the ordinance which otherwise incorporates by reference the uniform city income tax ordinance set forth in chapter 2.

(2) The governing body of a city with a population of less than 1,000,000 persons may levy, assess, and collect an excise tax on income earned and received at a rate of not more than 2% on corporations, not more than 2% on resident individuals, and not more than 50% of the rate imposed on resident individuals on nonresident individuals if approved by a majority of the qualified electors of the city voting thereon before November 15, 1988, and if all of the following occurred in the calendar year immediately preceding the calendar year in which the increased rates allowed by this subsection initially would apply:

(a) The city levied more than 22 mills for city purposes and for payment of judgments ordered by a court of competent jurisdiction.

(b) More than 65 mills were levied in the city for all purposes.

(c) The city levied a tax pursuant to this act.

(3) Any increase in the tax rate permitted by this section shall not become effective until the governing body of the city, by resolution, provides for securing the services of a financial management consultant. The financial management consultant shall be selected by the mayor with the approval of the local emergency financial assistance loan board created under Act No. 243 of the Public Acts of 1980, as amended, being sections 141.931 to 141.942 of the Michigan Compiled Laws. The resolution shall further provide that the financial management consultant shall be paid from city funds. The duties of the financial management consultant shall be to monitor the fiscal condition of the city, to report the findings of this monitoring to the local governing body, the mayor, and the local emergency financial assistance loan board, and to provide financial management technical assistance to the city. The local emergency financial assistance loan board shall determine the form of monitoring and the frequency of reporting. The financial management consultant

shall have full access to all fiscal and other records of the city. The services of a financial management consultant may be terminated subject to the approval of the local emergency financial assistance loan board at such time as improvement in the financial condition of the city warrants this action. The local emergency financial assistance loan board may make recommendations to the legislature that will assist in the attainment of further fiscal improvement for the city.

History: Add. 1982, Act 124, Imd. Eff. Apr. 19, 1982;—Am. 1984, Act 137, Imd. Eff. June 1, 1984;—Am. 1987, Act 223, Imd. Eff. Dec. 28, 1987.

141.503b Amending ordinance to increase tax; duration of increase; approval of amendment; applicability of section.

Sec. 3b. A city that levied the tax authorized by this act before the effective date of this section may amend the ordinance to increase the rate to an annual tax of not more than 1.4% on corporations and resident individuals and not more than 0.7% on nonresident individuals. The increase in the tax authorized by this section shall be levied for not longer than 13 years as provided in the ballot proposal submitted to the electors. An amendment to the city income tax ordinance under this section is not effective unless the amendment is approved before July 1, 1988 by a majority vote of the registered and qualified electors of that city voting on the proposition. This section applies only to a city that has a population of more than 50,000 and that, within 6 years before the approval of the amendment authorized by this section, annexes to the city an area containing more than 20 square miles.

History: Add. 1987, Act 223, Imd. Eff. Dec. 28, 1987.

141.503c Amendment to city income tax ordinance.

Sec. 3c. A city that levied the tax authorized by this act before March 30, 1989 may amend the ordinance to increase the rate to an annual tax of not more than 1-1/2% on corporations and resident individuals and not more than 3/4% on nonresident individuals, but not more than 1/2 of the tax rate imposed on resident individuals. An amendment to the city income tax ordinance under this section is not effective unless the amendment is approved by a majority of the qualified electors voting on the question. Before November 10, 1989, an amendment under this section shall not be placed before the voters for approval more than once in any 12-month period. This section applies only to a city with a population of more than 140,000 and less than 750,000 or a city with a population of more than 65,000 and less than 100,000 in a county with a population less than 300,000.

History: Add. 1988, Act 520, Eff. Mar. 30, 1989;—Am. 1998, Act 500, Eff. Jan. 12, 1999.

141.503d Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 3d. A petition under section 3, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 156, Eff. Mar. 23, 1999.

141.504 Rules governing form and manner of appeal from final determination; time for appeal; hearing; evidence; notice of hearing; order; copy of order and opinion.

Sec. 4. The state commissioner of revenue shall promulgate uniform rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, governing the form and manner of appeal from a final determination by a city affecting a taxpayer, employee, or other person and purporting to be made under or in administration of the uniform city income tax ordinance. The rules shall provide at least 30 days after notice of a final assessment, denial of claim for refund, special ruling, or rule of the city, in which the appeal may be filed. The rules shall provide to the taxpayer, employer, other person, or an authorized representative of the person and to the city an opportunity to present evidence and to examine witnesses relating to the matter under appeal. The hearing shall be held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976. Promptly after completion of the hearing, the commissioner shall affirm, reverse, or modify by written order the action of the city which is the subject matter of the appeal, and shall furnish a copy of the order and opinion to the appellant and to the authorized official of the city.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1977, Act 175, Imd. Eff. Nov. 17, 1977.

141.505 Right of appeal from decision or order; establishment of city income tax trust fund; payment of recoveries as result of appeal; compliance with final order.

Sec. 5. (1) A person liable for the tax imposed by the ordinance set forth in and adopted pursuant to this act, a city that imposes a tax pursuant to the ordinance set forth in and adopted pursuant to this act or the department has the right of appeal from a decision or order made under this act as set forth in chapter 2.

(2) The city income tax trust fund is established in the department of treasury and all of the following apply to the fund:

(a) The state is prohibited from borrowing from the fund.

(b) The interest earned on the money in the fund shall remain in the fund.

(c) After an agreement entered into pursuant to section 9 is terminated, any liabilities that relate to that agreement shall be paid from the fund and if there are insufficient funds to pay those liabilities, the city that entered into the agreement shall be responsible for paying those liabilities.

(3) If a taxpayer or employer, as the result of an appeal under this act, is found entitled to recover any sum paid, the taxpayer or employer shall be paid from the general fund of the city except that if the city has entered into an agreement pursuant to section 9, the amount to be paid shall be paid by the state from the city income tax trust fund established in subsection (2). Only recoveries based on taxes payable for a tax year for which a city has entered into an agreement under section 9 shall be paid by the state from the city income tax trust fund. The city or the department shall promptly and uniformly comply with a final order upon appeal.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.505d Charge or collection of city income tax by department of treasury; limitation.

Sec. 5d. The department of treasury shall not charge to or collect from a taxpayer any amount not otherwise authorized by law in conjunction with the collection of city income tax imposed under this act.

History: Add. 1996, Act 478, Eff. Jan. 1, 1997.

141.506 Uniform city income tax ordinance; application.

Sec. 6. The uniform city income tax ordinance does not apply to a person or corporation as to whom or which it is beyond the power of the city to impose the tax therein provided for.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.507 Uniform city income tax ordinance; form.

Sec. 7. The uniform city income tax ordinance is as set forth in chapter 2.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.508 Imposition of city income tax within renaissance zone; amendment of city income tax ordinance.

Sec. 8. If a city or any part of a city that imposes a city income tax pursuant to this act is within the boundaries of a renaissance zone designated pursuant to the Michigan renaissance zone act, Act No. 376 of the Public Acts of 1996 , being sections 125.2681 to 125.2696 of the Michigan Compiled Laws, the city shall amend its city income tax ordinance to include section 35 of chapter 2. As used in this section, “renaissance zone” means that term as defined in Act No. 376 of the Public Acts of 1996.

History: Add. 1996, Act 442, Imd. Eff. Dec. 19, 1996.

Compiler's note: Former MCL 141.508, which pertained to administering and collection of city income tax, was repealed by Act 149 of 1970, Imd. Eff. Aug. 1, 1970.

141.509 Administration, enforcement, and collection of city income tax by department of treasury; agreement; disposition of amounts collected; provisions.

Sec. 9. (1) For the 1996 tax year and each year after 1996, a city that imposes a city income tax pursuant to this act may enter into an agreement with the department of treasury under which the department of treasury shall administer, enforce, and collect the city income tax on behalf of the city.

(2) City income taxes, interest, penalties, and collection fees collected under an agreement entered into pursuant to subsection (1) shall be kept in the city income tax trust fund and shall be paid to the city, except that an amount of the taxes collected as determined in the agreement may be retained by the department of treasury to cover the cost of collection and administration and that amount shall be deposited into the state general fund. The department of treasury shall not charge to or collect from a taxpayer any amount not otherwise authorized by law in conjunction with the collection of city income tax pursuant to an agreement entered into pursuant to this section.

(3) If the city enters into an agreement under subsection (1), the agreement shall include provisions that

relate to all of the following:

(a) The development of and distribution of forms required by the agreement and the ordinance under chapter 2.

(b) The processing of all payments.

(c) Enforcement procedures.

(d) Administrative and legal costs.

(e) Data exchange.

(f) Transfer and payment of funds.

(g) Termination of the agreement by either party.

(h) Any additional provisions as appropriate.

History: Add. 1996, Act 478, Eff. Jan. 1, 1996.

CHAPTER 2

UNIFORM CITY INCOME TAX ORDINANCE

141.601 Uniform city income tax ordinance; short title.

Sec. 1. This ordinance shall be known and may be cited as the "uniform city income tax ordinance".

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.602 Uniform city income tax ordinance; rules of construction, definitions.

Sec. 2. For the purposes of this ordinance, the words, terms and phrases set forth in sections 3 to 9 and their derivations have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. "Shall" is always mandatory and not merely directory. "May" is always directory.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.603 Definitions; A to D.

Sec. 3. (1) "Administrator" means the official designated by the city to administer this ordinance or the duly authorized agent or representative of that official but does not mean the department of treasury.

(2) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted or ordinarily conducted for profit or gain by any person, including the operation of an unrelated business by a charitable, religious, or educational organization.

(3) "Capital gains" and "capital losses" mean those terms as defined for federal income tax purposes.

(4) "Department" means the department of treasury for tax years after the 1996 tax year for which a city has entered into an agreement with the department of treasury pursuant to section 9 of chapter 1. Department includes a duly authorized agent or representative of the department.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.604 Definitions; C.

Sec. 4. (1) "City" means the city adopting the ordinance.

(2) "Compensation" means salary, pay or emolument given as compensation or wages for work done or services rendered, in cash or in kind, and includes but is not limited to the following: salaries, wages, bonuses, commissions, fees, tips, incentive payments, severance pay, vacation pay and sick pay.

(3) "Corporation" means a corporation or a joint stock association organized under the laws of the United States, this state, or any other state, territory, or foreign country or dependency.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.605 Definitions; D.

Sec. 5. "Doing business" means the conduct of any activity with the object of gain or benefit, except that it does not include:

(a) The solicitation of orders by a person or his representative in the city for sales of tangible personal property, which orders are sent outside the city for approval or rejection and, if approved, are filled by shipment or delivery from a point outside the city.

(b) The solicitation of orders by a person or his representative in the city in the name of or for the benefit of a prospective customer of a person, if orders by the customer to such person to enable the customer to fill orders resulting from the solicitation are orders described in paragraph (a).

(c) The mere storage of personal property in the city in a warehouse neither owned nor leased by the taxpayer.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.606 Definitions; E, F.

Sec. 6. (1) “Employee” means a person from whom an employer is required to withhold for either federal income or federal social security taxes.

(2) “Employer” means an individual, partnership, association, corporation, nonprofit organization, governmental body or unit or agency including the state, or any other entity whether or not taxable under this ordinance, that employs 1 or more persons on a salary, bonus, wage, commission or other basis, whether or not the employer is in a business.

(3) “Federal internal revenue code” means the internal revenue code of the United States in effect on the last day of the taxpayer's tax year.

(4) “Financial institution” means a bank, industrial bank, trust company, building and loan or savings and loan association, credit union, safety and collateral deposit company, regulated investment company as defined in section 851 and the following sections of the federal internal revenue code, under whatever authority organized, and any other association, joint stock company or corporation at least 90% of whose assets consist of intangible personal property and at least 90% of whose gross income consists of dividends or interest or other charges resulting from the use of money or credit.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1971, Act 169, Imd. Eff. Dec. 2, 1971.

141.607 Definitions; F to N.

Sec. 7. (1) “Fiscal year” means an accounting period of 12 months ending on any day other than December 31. Only fiscal years accepted by the internal revenue service for federal income tax purposes may be used for city tax purposes.

(2) “Net profits” means the net gain from the operation of a business, profession or enterprise, after provision for all costs and expenses incurred in the conduct thereof, determined on either a cash or accrual method, on the same basis as provided for in the federal internal revenue code for federal income tax purposes, excluding items exempted under this ordinance, but without deduction of federal and city taxes based on income and without deduction of net operating loss carry-over or capital loss carry-over sustained prior to the effective date of this tax, except that net operating losses and capital losses sustained after the effective date of this tax may be carried over to the same extent and on the same basis as under the federal internal revenue code but shall not be carried back to prior years.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1971, Act 169, Imd. Eff. Dec. 2, 1971.

141.608 Definitions; N to P.

Sec. 8. (1) “Nonresident” means an individual domiciled outside the city.

(2) “Person” means a natural person, partnership, fiduciary, association, corporation or other entity. When used in any provision imposing a criminal penalty, “person” as applied to an association means the parties or members thereof, and as applied to a corporation, the officers thereof.

(3) “Predominant place of employment” means that city imposing a tax under a uniform city income tax ordinance other than the city of residence, in which the employee estimates he will earn the greatest percentage of his compensation from the employer, which percentage is 25% or more.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.609 Definitions; R to T.

Sec. 9. (1) “Resident” means an individual domiciled in the city. “Domicile” means a place where a person has his true, fixed and permanent home and principal establishment, to which, whenever absent therefrom, he intends to return, and domicile continues until another permanent establishment is established. If an individual, during the taxable year, being a resident becomes a nonresident or vice versa, taxable income shall be determined separately for income in each status.

(2) “Taxable year” means the calendar year, or the fiscal year, used as the basis on which net profits and other income subject to tax under this ordinance are to be computed, and in case of a return for a fractional part of a year, the period for which the return is required to be made.

(3) “Taxpayer” means a person required under this ordinance to file a return or to pay a tax.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.611 Excise tax on incomes; rates.

Sec. 11. Subject to the exclusions, adjustments, exemptions, and deductions herein provided, an annual tax of 1% on corporations and resident individuals and of 1/2% on nonresident individuals for general revenue purposes and the purposes provided for in sections 11a and 11b is hereby imposed as an excise on income earned and received on and after the effective date of this ordinance. However, if the governing body of the city adopts a resolution to impose the tax at a lower rate, the tax is hereby imposed at that lower rate. If the tax is imposed at a lower rate, the rate on nonresident individuals shall not exceed 1/2 of the rate on corporations and resident individuals.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1992, Act 276, Imd. Eff. Dec. 18, 1992;—Am. 1993, Act 125, Eff. Jan. 1, 1994;—Am. 1995, Act 233, Imd. Eff. Dec. 19, 1995.

141.611a Ordinance, resolution, or agreement to dedicate and transfer funds; purposes; commencement; amount; definitions.

Sec. 11a. (1) For the 1993 tax year and each tax year after 1993, a city that is a qualified local unit of government, as defined by the federal facility development act, may adopt an ordinance or resolution, or may enter into an agreement with a qualified local unit of government other than the city, to dedicate and transfer funds in an amount determined pursuant to subsection (3) solely and to the extent necessary for the purposes authorized for use of the federal facility development fund created by the federal facility development act.

(2) When a city adopts an ordinance or resolution or enters into an agreement pursuant to subsection (1), the use or transfer of any funds dedicated or to be transferred shall commence and continue until any bonds, obligations, or other evidences of indebtedness for which the funds are pledged are fully paid.

(3) The amount dedicated or to be transferred by a city each year pursuant to subsection (1) shall equal the amount of withheld tax remitted by a qualified employer pursuant to section 60, as reconciled pursuant to section 61, for all qualified employees.

(4) As used in this section:

(a) "Qualified employee" means a person who meets both of the following criteria:

(*i*) Is employed by a qualified employer.

(*ii*) His or her principal workplace is a qualified facility.

(b) "Qualified employer" means the federal government.

(c) "Qualified facility" and "qualified local unit of government" mean those terms as defined in the federal facility development act.

History: Add. 1992, Act 276, Imd. Eff. Dec. 18, 1992.

141.611b City as qualified local unit of government; dedication and transfer of funds; purposes; use of federal data facility fund; amount; definitions.

Sec. 11b. (1) A city that is a qualified local unit of government, as defined by the federal data facility act, may adopt an ordinance or resolution, or may enter into an agreement with a qualified local unit of government other than the city, to dedicate and transfer funds in the 1994 through 2003 tax years in an amount determined pursuant to subsection (3) solely and to the extent necessary for the purposes authorized for the use of the federal data facility fund created by the federal data facility act.

(2) If a city adopts an ordinance or resolution or enters into an agreement pursuant to subsection (1), the use or transfer of any funds dedicated or to be transferred shall commence and continue until any bonds, obligations, or other evidences of indebtedness for which the funds are pledged are fully paid or the authorized purpose is otherwise completed but not after the 2003 tax year.

(3) The amount dedicated or to be transferred by a city each year pursuant to subsection (1) shall equal the amount of withheld tax remitted by a qualified employer pursuant to section 60, as reconciled pursuant to section 61, for all qualified employees.

(4) As used in this section:

(a) "Qualified employee" means a person who meets both of the following criteria:

(*i*) Is employed by a qualified employer.

(*ii*) His or her principal workplace is a qualified facility.

(b) "Qualified employer" means the federal government.

(c) "Qualified facility" and "qualified local unit of government" mean those terms as defined in the federal data facility act.

History: Add. 1993, Act 125, Eff. Jan. 1, 1994.

141.612 Excise tax on incomes; application to resident individuals.

Sec. 12. The tax shall apply on the following types of income of a resident individual to the same extent and on the same basis that the income is subject to taxation under the federal internal revenue code:

(a) On a salary, bonus, wage, commission and other compensation.

(b) On a distributive share of the net profits of a resident owner of an unincorporated business, profession, enterprise, undertaking or other activity, as a result of work done, services rendered and other business activities wherever conducted.

(c) On dividends, interest, capital gains less capital losses, income from estates and trusts and net profits from rentals of real and tangible personal property.

(d) On other income of a resident individual.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.613 Types of nonresident income to which tax applicable; extent and basis of tax.

Sec. 13. The tax shall apply on the following types of income of a nonresident individual to the same extent and on the same basis that the income is subject to taxation under the federal internal revenue code:

(a) On a salary, bonus, wage, commission, and other compensation for services rendered as an employee for work done or services performed in the city. Income that the nonresident taxpayer receives as the result of disability and after exhausting all vacation pay, holiday pay, and sick pay is not compensation for services rendered as an employee for work done or services performed in the city. Vacation pay, holiday pay, sick pay and a bonus paid by the employer are considered to have the same tax situs as the work assignment or work location and are taxable on the same ratio as the normal earnings of the employee for work actually done or services actually performed.

(b) On a distributive share of the net profits of a nonresident owner of an unincorporated business, profession, enterprise, undertaking, or other activity, as a result of work done, services rendered, and other business activities conducted in the city.

(c) On capital gains less capital losses from sales of, and on the net profits from rentals of, real and tangible personal property, if the capital gains arise from property located in the city.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1988, Act 216, Imd. Eff. July 1, 1988.

141.614 Excise tax on incomes; taxable net profits of a corporation, definition.

Sec. 14. The tax shall apply on the taxable net profits of a corporation doing business in the city, being levied on such part of the taxable net profits as is earned by the corporation as a result of work done, services rendered and other business activities conducted in the city, as determined in accordance with this ordinance. "Taxable net profits of a corporation" means federal taxable income as defined in section 63 of the federal internal revenue code but taking into consideration all exclusions and adjustments provided in this ordinance. No deduction shall be allowed for:

(a) Net operating losses and net capital losses sustained prior to the effective date of the tax.

(b) The city income tax imposed by this ordinance.

A corporation may deduct income, war profits and excess profits taxes, imposed by a foreign country or possession of the United States, allocable to income included in taxable net income, any part of which would be allowable as a deduction in determining federal taxable income under the applicable provisions of the federal internal revenue code.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.615 Excise tax on incomes; unincorporated business, profession; sole proprietorship, partnership.

Sec. 15. An unincorporated business, profession or other activity conducted by 1 or more persons subject to the tax as either a sole proprietorship or partnership shall not be taxable as such. The persons carrying on the unincorporated business, profession or other activity are liable for income tax only in their separate and individual capacities and on the following bases:

(a) A resident proprietor or partner is taxable upon his entire distributive share of the net profits of the activity regardless of where the activity is conducted.

(b) A nonresident proprietor or partner is taxable only upon his distributive share of the portion of the net profits of the activity which is attributable to the city under the allocation methods provided in this ordinance.

(c) In the hands of a proprietor or partner of an unincorporated activity, the character of any item of income taxable under this ordinance is determined as if such item were realized by the individual proprietor or partner directly from the source from which it is realized by the unincorporated activity. In computing his taxable income for a taxable year, a person who is required to file a return shall include therein his taxable distributive share of the net profits for any partnership year ending within or with his taxable year.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.616 Unincorporated business, profession, or activity; return.

Sec. 16. An unincorporated business, profession or other activity owned by 2 or more persons shall file an annual information return setting forth:

(a) The entire net profit for the period covered by the return and the taxable portion of the net profit attributable to the city.

(b) The names and addresses of the owners of the unincorporated activity and each owner's taxable distributive share of the total net profit and each nonresident owner's share of the taxable net profit attributable to the city.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.617 Unincorporated business, profession, or activity; election to pay tax.

Sec. 17. At the election of an unincorporated business, profession or other activity, the entity, on behalf of the owners, may compute and pay the tax due with respect to each owner's share of the net profit of the activity after giving effect to exemptions to which each owner is entitled. This election is available to all unincorporated business entities having 2 or more owners regardless of the residence of the owners. The tax thus paid by the entity shall constitute all tax due with respect to each owner's distributive share of the net profits of the unincorporated business, profession or other activity.

If the unincorporated business, profession or other activity elects under this section to file a return and pay the tax on behalf of its owners, the election and filing are deemed to meet the requirements of this ordinance for the filing of a return for each owner who has no other income subject to the tax. However, a return is required from any such owner having taxable income other than his distributive share of the net profits of the entity. In such case the entire income subject to the tax shall be included in the return and credit taken thereon for the tax paid in his behalf by the unincorporated activity.

If the unincorporated business, profession or other activity elects to pay the tax on behalf of the owners, then the unincorporated business, profession or other activity assumes the status of a taxpayer and is liable to interest and penalty if payment is not made by the due date, in accordance with the calendar or fiscal year used by the unincorporated business, profession or other activity.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.618 Partial business activity in city; apportionment of net profit.

Sec. 18. When the entire net profit of a business subject to the tax is not derived from business activities exclusively within the city, the portion of the entire net profit, earned as a result of work done, services rendered or other business activity conducted in the city, shall be determined under either section 19, sections 20 to 24, or section 25.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1969, Act 42, Imd. Eff. July 17, 1969.

141.619 Partial business activity in city; separate accounting method.

Sec. 19. The taxpayer may petition for and the administrator may grant approval of, or the administrator may require, the separate accounting method. If such method is petitioned for the administrator may require a statement, explaining the manner in which the apportionment will be made, in sufficient detail to determine whether the net profits attributable to the city will be apportioned with reasonable accuracy.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1969, Act 42, Imd. Eff. July 17, 1969.

141.620 Partial business activity in city; business allocation percentage method.

Sec. 20. The business allocation percentage method shall be used if such taxpayer is not granted approval to use the separate accounting method of allocation. The entire net profits of such taxpayer earned as a result of work done, services rendered or other business activity conducted in the city shall be ascertained by determining the total “in-city” percentages of property, payroll and sales. “In-city” percentages of property, payrolls and sales, separately computed, shall be determined in accordance with sections 21 to 24.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1969, Act 42, Imd. Eff. July 17, 1969.

141.621 Partial business activity in city; percentage of average net book value; gross rental value of real property.

Sec. 21. First, the taxpayer shall ascertain the percentage which the average net book value, of the tangible personal property owned and the real property, including leasehold improvements, owned or used by it in the business and situated within the city during the taxable period, is of the average net book value of all of such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period wherever situated. Real property shall include real property rented or leased by the taxpayer and the value of such property shall be deemed to be 8 times the annual gross rental thereon. “Gross rental of real property” means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of real property and includes but is not limited to:

(a) An amount payable for the use or possession of real property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.

(b) An amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs or other amount required to be paid by the terms of a lease or other arrangement.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.622 Partial business activity in city; percentage of compensation paid employees.

Sec. 22. Second, the taxpayer shall ascertain the percentage which the total compensation paid to employees for work done or for services performed within the city is of the total compensation paid to all the taxpayer's employees within and without the city during the period covered by the return. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer.

If an employee performs services within and without the city, the following examples are not all inclusive but may serve as a guide for determining the amount to be treated as compensation for services performed within the city:

(a) In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the city is of his total working time.

(b) In the case of an employee compensated directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for business attributable to his efforts in the city.

(c) In the case of an employee compensated on other results achieved, the proportion of the total compensation received which the value of his services within the city bears to the value of all his services.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.623 Partial business activity in city; percentage of gross revenue.

Sec. 23. Third, the taxpayer shall ascertain the percentage which the gross revenue of the taxpayer derived from sales made and services rendered in the city is of the total gross revenue from sales and services wherever made or rendered during the period covered by the return.

(1) For the purposes of this section, “sales made in the city” means all sales where the goods, merchandise or property is received in the city by the purchaser, or a person or firm designated by him. In the case of delivery of goods in the city to a common or private carrier or by other means of transportation, the place at which the delivery has been completed is considered as the place at which the goods are received by the purchaser.

The following examples are not all inclusive but may serve as a guide for determining sales made in the city:

(a) Sales to a customer in the city with shipments to a destination within the city from a location in the city or an out-of-city location are considered sales made in the city.

(b) Sales to a customer in the city with shipments to a destination within the city directly from the taxpayer's in-city supplier or out-of-city supplier are considered sales made in the city.

(c) Sales to a customer in the city with shipments directly to the customer at his regularly maintained and established out-of-city location are considered out-of-city sales.

(d) Sales to an out-of-city customer with shipments or deliveries to the customer's location within the city are considered sales made in the city.

(e) Sales to an out-of-city customer with shipments to an out-of-city destination are considered out-of-city sales.

(2) In the case of public utilities, or businesses furnishing transportation services, “gross revenue” for the purposes of this section may be measured by such means as operating revenues, vehicle miles, revenue miles, passenger miles, ton miles, tonnage, or such other method as shall reasonably measure the proportion of gross revenue obtained in the city by such business.

(3) In case the business of the taxpayer involves substantial business activities other than sales of goods and services such other method or methods of allocation shall be employed as shall reasonably measure the proportion of gross revenue obtained in the city by such business.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.624 Partial business activity in city; business allocation percentage.

Sec. 24. Fourth, the taxpayer shall add the percentages determined in accordance with sections 21, 22 and 23 and divide the total by 3 and the result so obtained is the business allocation percentage. In determining this percentage, a factor shall be excluded from the computation only when the factor does not exist anywhere insofar as the taxpayer's business operation is concerned and, in such case, the total of the percentages shall be divided by the number of factors actually used. The business allocation percentage shall be applied to the entire net profits, wherever derived, of the taxpayer subject to the tax to determine the net profits allocable to the city.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1969, Act 42, Imd. Eff. July 17, 1969.

141.625 Partial business activity in city; substitute methods.

Sec. 25. An alternative method of accounting shall be used if the taxpayer or the administrator demonstrates that the net profits of the taxpayer allocable to the city cannot be justly and equitably determined under the separate accounting method or the business allocation percentage method, or if undue expense to the taxpayer would result from complying therewith because of the taxpayer's manner of operations and methods of accounting. In such case the administrator, upon application of the taxpayer or upon his own initiative, may approve or specify factors or methods of determination as will effect a just, nondiscriminatory and reasonable result. Application to the administrator to substitute other factors in the formula or to use a different method to allocate net profits shall be made in writing and state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought. No specific form need be followed in making the application. Once a taxpayer has filed under a substitute method, he shall continue so to file until given permission by the administrator to change.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.626 Capital gains and losses; determination.

Sec. 26. (1) Capital gains and capital losses, other than gains and losses on securities issued by the government of the United States, shall be included in income only to the extent of that portion of the gains or losses which occur after the effective date of this ordinance. In determining the amount of gain or loss, the taxpayer may use net proceeds from the sale or exchange less fair market value as of the effective date of this ordinance. The fair market value of property shall be determined by an appraisal or similar reliable evidence. The fair market value of a security shall be the last quoted price on the last business day prior to the effective date. For a security traded over the counter the last quoted price shall be the last bid price on the last business day prior to the effective date. The taxpayer may determine the gain or loss on a transaction in the same manner as for federal income tax purposes taking into account only that portion thereof which occurs after the effective date. The portion of that gain or loss includible in computing taxable income will be the same proportion of the total gain or loss as the period of time the property was held after the effective date of the ordinance bears to the total time the property was held. In any city adopting this ordinance which had a valid local income tax ordinance in effect on January 1, 1964, capital gains and losses shall be included to the extent of that portion of such gains or losses which occur after the effective date of the original city income tax ordinance.

(2) If capital losses exceed capital gains in a taxable year, the unused portion may be utilized to the same extent and on the same basis as under the federal internal revenue code.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.627 Estates or trusts, deemed nonresidents; definitions.

Sec. 27. An estate or trust is not subject to tax under this ordinance, except that it shall be treated as a nonresident individual for purposes of section 11 of this ordinance to the extent income of the estate or trust described in section 13 is not includible in the return of a resident individual as “income from estates and trusts”. A resident individual shall include “income from estates and trusts” in his income subject to tax under this ordinance without regard to the situs of the estate or trust. For this purpose, an “estate” means the estate of a deceased person during the period of administration or settlement and a “trust” means an inter vivos or testamentary trust created by an individual for the benefit of 1 or more persons.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1965, Act 10, Imd. Eff. Apr. 18, 1965.

141.628 Income from estates and trusts.

Sec. 28. (1) “Income from estates” means “income” as defined in section 643 (b) of the federal internal revenue code, properly paid, credited or distributed but not in excess of the resident individual's share of the distributable net income of the estate decreased by the amount of depreciation or depletion allowed the resident individual as a deduction under section 642 of the federal internal revenue code. The exceptions hereinafter set forth with respect to trusts are also applicable to income from estates. “Income from trusts” means the amount of “income” as defined in section 643 (b) of the federal internal revenue code, distributed or required to be distributed under sections 652 (a) or 662 (a) (1) of the federal internal revenue code, decreased by the amount of depreciation or depletion allowed the resident individual as a deduction by section

642 of the federal internal revenue code, with the following exceptions:

(a) Dividends on stock of state and national banks and trust companies.

(b) Interest from obligations of the United States, the states or subordinate units of government of the states.

(2) Income received by a resident individual from a fiduciary shall retain the character it held in the hands of the fiduciary. With respect to trusts where the income is taxed to the grantor or some other person under subpart E of subchapter J of the federal internal revenue code, the grantor or other person shall include in his return all items of income and deductions allowed by this ordinance.

(3) An individual shall include “income from estates and trusts” in his return in the same year as provided in the federal internal revenue code with respect to distributions of income from estates and trusts. The amount of income included in the return for the first tax year of a resident individual, with respect to estates and trusts, shall be computed as though the tax year of the estate or trust for federal income tax purposes began on the effective date of this ordinance and ended with the end of the tax year of the estate or trust for federal income tax purposes which ends next following the effective date.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.631 Exemptions.

Sec. 31. (1) An individual taxpayer in computing his or her taxable income is allowed deductions for the full personal and dependency exemptions authorized by the federal internal revenue code or, on the passage of a further ordinance, a deduction of a minimum of $600.00 for each personal and dependency exemption under the rules for determining exemptions and dependents as provided in the federal internal revenue code. The taxpayer may claim his or her spouse and dependents as exemptions, but if the taxpayer and the spouse are both subject to the tax imposed by this ordinance, the number of exemptions claimed by each of them when added together shall not exceed the total number of exemptions allowed under this ordinance.

(2) For tax years beginning after 1986, an additional exemption is allowed under subsection (1), upon passage of a further ordinance, for a taxpayer who is 65 years of age or older, or who is blind as defined in section 504 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being section 206.504 of the Michigan Compiled Laws, or if the taxpayer is both 65 years of age or older and blind, 2 additional exemptions are allowed under subsection (1). For tax years beginning after 1987, upon passage of a further ordinance, an additional exemption is allowed under subsection (1) for a taxpayer who is a paraplegic, quadriplegic, hemiplegic, or totally and permanently disabled person as defined in section 216 of title II of the social security act, 42 U.S.C. 416, or a taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, Act No. 204 of the Public Acts of 1982, being section 393.502 of the Michigan Compiled Laws. If the taxpayer qualifies for an additional exemption under more than 1 of the following, an additional exemption is allowed for each of the following for which the taxpayer qualifies:

(a) A taxpayer who is a paraplegic, quadriplegic, or hemiplegic, or who is a totally or permanently disabled person as defined in section 216 of title II of the social security act, 42 U.S.C. 416.

(b) A taxpayer who is blind as defined in section 504 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being section 206.504 of the Michigan Compiled Laws.

(c) A taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, Act No. 204 of the Public Acts of 1982, being section 393.502 of the Michigan Compiled Laws.

(d) A taxpayer who is 65 years of age or older.

(3) For tax years beginning after 1986 and upon passage of a further ordinance, a city, as determined by its governing body, may provide for either an exemption from the tax levied under this act if that person's adjusted gross income for that tax year is less than a certain amount to be as specified by the ordinance, or an exemption in an amount to be specified by the ordinance, for a person with respect to whom a deduction under section 151 of the internal revenue code is allowable to another federal taxpayer during the tax year and is therefore not considered to have a federal personal exemption under subsection (1).

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1970, Act 149, Imd. Eff. Aug. 1, 1970;—Am. 1988, Act 120, Imd. Eff. May 6, 1988.

141.632 Payments and benefits not subject to tax.

Sec. 32. The following payments and benefits received by any person are not subject to the tax:

(a) Gifts and bequests.

(b) Proceeds of insurance, annuities, pensions and retirement benefits. Amounts received for personal injuries, sickness or disability are excluded from taxable income only to the extent provided by the federal internal revenue code.

(c) Welfare relief, unemployment benefits including supplemental unemployment benefits, and workmen's compensation or similar payments from whatever source derived.

(d) Amounts received by charitable, religious, educational and other similar nonprofit organizations which are exempt from taxation under the federal internal revenue code.

(e) Amounts received by supplemental unemployment benefit trusts or pension, profit sharing and stock bonus trusts qualified and exempt under the federal internal revenue code.

(f) Interest from obligations of the United States, the states or subordinate units of government of the states and gains or losses on the sales of obligations of the United States.

(g) Net profits of financial institutions and insurance companies.

(h) Amounts paid to an employee as reimbursement for expenses necessarily and actually incurred by him in the actual performance of his services and deductible as such by the employer.

(i) Compensation received for service in the armed forces of the United States.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1971, Act 169, Imd. Eff. Dec. 2, 1971.

141.633 Deductible expenses generally.

Sec. 33. Ordinary, necessary, reasonable and unreimbursed expenses paid or incurred by an individual in connection with the performance by him of services as an employee may be deducted from gross income in determining income subject to the tax to the extent the expenses are applicable to income taxable under this ordinance. The expenses are limited to the following:

(a) Expenses of travel, meals and lodging while away from home.

(b) Expenses as an outside salesman, away from his employer's place of business.

(c) Expenses of transportation.

(d) Expenses under a reimbursement or other expense allowance arrangement with his employer, where the reimbursement or allowance has been included in total compensation reported.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1971, Act 169, Imd. Eff. Dec. 2, 1971.

141.634 Deductible expenses; alimony, separate maintenance payments and principal sums payable in installments, moving expenses, and payments to retirement plan or account.

Sec. 34. The following expenses paid or incurred by an individual may be deducted from gross income in determining income subject to tax to the extent the expenses are applicable to income taxable under this ordinance:

(a) An individual may deduct alimony, separate maintenance payments and principal sums payable in installments, to the extent includable in the spouse's adjusted gross income under the federal internal revenue code but only to the extent deductible by the individual under the federal internal revenue code. A nonresident individual may deduct only that proportion of his alimony, separate maintenance or principal sums payable in installments that his income taxable under this ordinance bears to his total federal adjusted gross income.

(b) An employee or self-employed individual may deduct moving expenses to the extent provided in section 217 of the federal internal revenue code.

(c) A self-employed individual may deduct payments to a qualified retirement plan to the extent provided in section 404 of the federal internal revenue code.

(d) An individual may deduct payments to an individual retirement account established pursuant to the employee retirement income security act of 1974, 29 U.S.C. 1001 to 1381, to the extent provided in section 219 of the internal revenue code.

History: Add. 1971, Act 169, Imd. Eff. Dec. 2, 1971;—Am. 1978, Act 197, Imd. Eff. June 4, 1978.

141.635 Qualified taxpayer within renaissance zone; determination of deductions claimed.

Sec. 35. (1) Notwithstanding any other provision of this ordinance and to the extent and for the duration provided in the Michigan renaissance zone act, Act No. 376 of the Public Acts of 1996, being sections 125.2681 to 125.2696 of the Michigan Compiled Laws, for the 1997 tax year and each tax year after 1997, a qualified taxpayer may deduct from gross income in determining income subject to tax under this ordinance, to the extent a deduction is applicable to income subject to the tax under this ordinance, an amount equal to 1 of the following for the specified types of taxpayers:

(a) For a qualified taxpayer as defined in subsection (12)(c)(*i*):

(*i*) Except as provided in subparagraphs (*ii*) and (*iii*), income subject to the tax that is earned or received in the tax year during the period of time that the taxpayer was a qualified taxpayer.

(*ii*) Capital gains subject to the tax that are received during the tax year during the period of time that the taxpayer was a qualified taxpayer. The deduction allowed under this subdivision shall be prorated based on the percentage of time that the asset was held by the taxpayer while the taxpayer was a qualified taxpayer.

(*iii*) Income received by the qualified taxpayer from winning an on-line lottery game sponsored by this state but only if the date on which the drawing for that game was held is after the taxpayer became a qualified taxpayer of a renaissance zone and income received by the taxpayer from winning an instant lottery game sponsored by this state but only if the taxpayer was a qualified taxpayer of a renaissance zone on the validation date of the lottery ticket for that game.

(b) For a qualified taxpayer as defined in subsection (12)(c)(*ii*), the amount determined pursuant to section 14, 19, 20 to 24, or 25 of this ordinance multiplied by a fraction the numerator of which is the percentage that the average net book value of the tangible personal property owned and the real property, including leasehold improvements, owned or used by the qualified taxpayer in the business and situated within the renaissance zone during the taxable period, is of the average net book value of all such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period situated in the city plus the percentage that the total compensation paid to employees for work done or for services performed within the renaissance zone is of the total compensation paid to all the taxpayer's employees within the city during the period covered by the return and the denominator of which is 2. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer. Real property includes real property rented or leased by the qualified taxpayer and the value of that property is considered to be 8 times the annual gross rental on the property. “Gross rental on the property” means gross rental of real property as that term is defined in section 21 of this ordinance.

(c) For a qualified taxpayer as defined in subsection (12)(c)(*iii*), the amount determined pursuant to section 15 of this ordinance multiplied by a fraction the numerator of which is the percentage that the average net book value of the tangible personal property owned and the real property, including leasehold improvements, owned or used by the qualified taxpayer in the business and situated within the renaissance zone during the taxable period, is of the average net book value of all such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period situated in the city plus the percentage that the total compensation paid to employees for work done or for services performed within the renaissance zone is of the total compensation paid to all the taxpayer's employees within the city during the period covered by the return and the denominator of which is 2. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer. Real property includes real property rented or leased by the qualified taxpayer and the value of that property is considered to be 8 times the annual gross rental on the property. “Gross rental on the property” means gross rental of real property as that term is defined in section 21 of this ordinance.

(2) For a qualified taxpayer as defined in subsections (12)(c)(*ii*) and (*iii*), any portion of income subject to tax under this ordinance derived from illegal activity conducted in a renaissance zone shall not be used to calculate a deduction allowed under this section. For a qualified taxpayer who is an individual, any portion of income subject to tax under this ordinance derived from illegal activity conducted anywhere shall not be used to calculate the deduction allowed under this section. For a qualified taxpayer as defined in subsection (12)(c)(*ii*) and (*iii*), any portion of the taxpayer's tax liability that is attributable to business activity related to the operation of a casino, and business activity that is associated or affiliated with the operation of a casino including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used to calculate a credit under this section. As used in this subsection, “casino” means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, Initiated Law of 1996, being sections 432.201 to 432.216 of the Michigan Compiled Laws.

(3) Income used to calculate a deduction under any other section of this ordinance shall not be used to calculate a deduction under this section.

(4) If a qualified taxpayer completes the residency requirements under subsection (12)(c) before the end of the tax year in which the qualified taxpayer first resided in the renaissance zone, the qualified taxpayer may claim the deduction allowed under this section for that tax year. If the qualified taxpayer completes the residency requirements under subsection (12)(c) in a tax year subsequent to the tax year in which the qualified taxpayer first resided in the renaissance zone, the following apply:

(a) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and before the date for filing the annual return under this ordinance for the tax year in which the taxpayer first resided in the renaissance zone, the taxpayer may claim the deduction allowed under this section for the tax year in which the taxpayer first resided in the renaissance zone.

(b) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and after the date for filing the annual return under this ordinance for the tax year in which the taxpayer first resided in the renaissance zone, the qualified taxpayer may claim the deduction allowed under this section for the tax year in which the residency requirement is completed on the annual return for the tax year in which the residency requirement is completed and may claim the deduction for the tax year in which the qualified taxpayer first resided in the renaissance zone by filing an amended return for that tax year in which the qualified taxpayer first resided in the renaissance zone.

(5) To be eligible for the deduction under this section, a taxpayer shall file an annual return under this ordinance.

(6) A qualified taxpayer shall file a withholding form prescribed by the city with his or her employer after the date the qualified taxpayer completes the requirements under subsection (12)(c) or, at the option of the city, for taxpayers who claim to be qualified taxpayers under subsection (12)(c)(*i*), the taxpayer shall file a form prescribed by the city with the city after the date the taxpayer completes the requirements under subsection (12)(c)(*i*). If the city verifies the information on the form, the city shall issue a certificate of qualification to the taxpayer which the taxpayer shall file with his or her employer. When a taxpayer who filed a form under this subsection is no longer a qualified taxpayer under subsection (12)(c)(*i*), the taxpayer shall send a written notice of that change in status to the city not more than 10 days after the change in status occurs.

(7) If the administrator finds that a taxpayer has claimed a deduction under this section to which he or she is not entitled, the taxpayer is subject to the interest and penalty provisions under this ordinance.

(8) The deduction allowed under this section continues through the tax year in which the renaissance zone designation expires.

(9) A net operating loss deduction allowed under this ordinance shall be calculated without regard to any deduction allowed under this section.

(10) If a taxpayer who was a qualified taxpayer during the tax year changes status and is not a qualified taxpayer or vice versa, income subject to tax under this ordinance shall be determined separately for income in each status.

(11) A qualified taxpayer as defined in subsection (12)(c)(*i*) is a resident of a renaissance zone for purposes of Act No. 376 of the Public Acts of 1996. A qualified taxpayer as defined in subsection (12)(c)(*ii*) or (*iii*) is located and conducts business in a renaissance zone for purposes of Act No. 376 of the Public Acts of 1996.

(12) As used in this section:

(a) “Conducts business activity” means doing business as defined in this ordinance.

(b) “Domicile” means a place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she intends to return, and domicile continues until another permanent establishment is established.

(c) “Qualified taxpayer” means 1 of the following:

(*i*) A taxpayer who is an individual, a resident of the city as determined under this ordinance, and is domiciled in an area of the city that is designated a renaissance zone for a period of 183 consecutive days. A taxpayer may begin calculating the 183-day period during the 183 days immediately preceding the designation of the area as a renaissance zone. Qualified taxpayer under this subparagraph includes the estate of an individual who was a qualified taxpayer at the time of death. After a taxpayer has completed the 183-day requirement under this subparagraph, the taxpayer is considered to have been a qualified taxpayer of that renaissance zone beginning from the first day used to determine if the 183-day requirement has been met.

(*ii*) A taxpayer that is a corporation and that is located and conducts business activity in a renaissance zone in the city.

(*iii*) A person who is located in and conducts business activity as an unincorporated business, profession, or other activity in a renaissance zone and is not a qualified taxpayer under subparagraph (*i*) or (*ii*).

(d) “Renaissance zone” means that term as defined in Act No. 376 of the Public Acts of 1996.

History: Add. 1996, Act 442, Imd. Eff. Dec. 19, 1996.

141.641 Annual return; joint return.

Sec. 41. (1) Every corporation doing business in the city and every other person having income taxable under this ordinance in any year before the 1997 tax year or in any tax year after the 1996 tax year for which the city has not entered into an agreement with the department of treasury pursuant to section 9 of chapter 1, shall make and file with the city an annual return for that year, on a form furnished or approved by the city, on or before the last day of the fourth month for the same calendar year, fiscal year, or other accounting period, that has been accepted by the internal revenue service for federal income tax purposes for the taxpayer. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, the annual return required by this subsection shall be filed with the city or the department as provided by the agreement on or before the fifteenth day of the fourth month for the same calendar year, fiscal year, or other accounting period that has been accepted by the internal revenue service for federal income tax purposes for the taxpayer.

(2) A husband and wife may file a joint return and, in such case, the tax liability is joint and several.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1971, Act 169, Imd. Eff. Dec. 2, 1971;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.642 Returns; contents.

Sec. 42. The annual return shall set forth:

(a) The number of exemptions, place of residence, place of employment and other pertinent information as shall reasonably be required.

(b) The aggregate amount of compensation, dividends, interest, net profit from rentals, capital gains less capital losses, net profits from business and other income, subject to the tax.

(c) The total amount of the tax imposed by this ordinance.

(d) The amount of the tax previously withheld or paid.

(e) Credits provided in this ordinance.

(f) The balance of the tax due or to be refunded.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.643 Payment of tax; refund; interest; allocation of payment; notice; nonobligated spouse; form; filing; release of liability; definitions.

Sec. 43. (1) A balance of the tax that is due the city at the time of filing an annual return shall be paid with the return unless the balance is less than $1.00, in which case payment is not required.

(2) If the annual return reflects an overpayment of the tax, the declaration of the overpayment on the return constitutes a claim for refund. Subject to subsection (6), if the city or the department agrees that a claim is valid, the city or the department shall apply the overpayment first to a delinquent tax liability under this ordinance of the taxpayer to the city. The city shall apply any remaining overpayment against a subsequent liability under this ordinance or, at the election of the taxpayer and if indicated on the return, shall refund the overpayment. However, the city shall not pay a refund of less than $1.00.

(3) If a valid claim for a refund of taxes, except a refund under section 61, due for the taxable year 1992 or a taxable year after 1992 is filed, interest at the rate established in section 30(3) of Act No. 122 of the Public Acts of 1941, being section 205.30 of the Michigan Compiled Laws, shall be added to the refund beginning 45 days after the claim is filed or 45 days after the date established under this ordinance for the filing of the return, whichever is later. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, a claim for refund shall be paid from money in the city income tax trust fund.

(4) For tax years after the 1995 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, if a taxpayer pays, when filing his or her annual return, an amount less than the sum of the declared tax liability under this act, and the declared tax liability under the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being sections 206.1 to 206.532 of the Michigan Compiled Laws, and there is no indication of the allocation of payment between the tax liabilities against which the payment should be applied, the amount paid shall first be applied against the taxpayer's tax liability under this act and any remaining amount of payment shall be applied to the taxpayer's tax liability under Act No. 281 of the Public Acts of 1967. The taxpayer's designation of a payee on a payment is not a dispositive determination of the allocation of that payment under this subsection.

(5) If the claim for refund is reflected on a joint tax return, the administrator shall allocate to each joint taxpayer his or her share of the refund. The amount allocated to each taxpayer shall be applied to his or her respective liabilities under this ordinance.

(6) If the administrator or the department determines that all or a portion of a refund claimed on a joint tax return is subject to application to a liability of an obligated spouse, the administrator or the department shall notify the joint taxpayers by first class mail sent to the address shown on the joint return. The notice shall be accompanied by a nonobligated spouse allocation form. The notice shall state all of the following:

(a) That all or a portion of the refund claimed by the joint taxpayers is subject to interception to satisfy a liability or liabilities of 1 or both spouses.

(b) The nature of the liability and the name of the obligated spouse or spouses.

(c) That a nonobligated spouse may claim his or her share of the refund by filing a nonobligated spouse allocation form with the city or the department not more than 30 days after the date the notice was mailed.

(d) A statement of the penalties under subsection (9).

(7) A nonobligated spouse who wishes to claim his or her share of a tax refund shall file with the city or the department a nonobligated spouse allocation form. The nonobligated spouse allocation form shall be in a form specified by the administrator or the department and shall require the spouses to state the amount of

income or other tax base and all adjustments to the income or other tax base, including all subtractions, additions, deductions, credits, and exemptions, stated on the joint tax return that is the basis for the claimed refund, and an allocation of those amounts between the obligated and nonobligated spouse. In allocating these amounts, all of the following apply:

(a) Individual income shall be allocated to the spouse who earned the income. Joint income shall be allocated equally between the spouses.

(b) Each spouse shall be allocated the personal exemptions he or she would be entitled to claim if separate federal returns had been filed, except that dependency exemptions shall be prorated according to the relative income of the spouses.

(c) Adjustments resulting from a business shall be allocated to the spouse who claimed income from the business.

(d) Ownership of other assets relevant to the allocation shall be disclosed upon request of the administrator or the department.

(8) A nonobligated spouse allocation form shall be signed by both joint taxpayers. However, the form may be submitted without the signature of the obligated spouse if his or her signature cannot be obtained. The nonobligated spouse shall certify that he or she has made a good faith effort to obtain the signature of the obligated spouse and shall state the reason that the signature was not obtained.

(9) A person who knowingly makes a false statement on a nonobligated spouse allocation form is subject to a penalty of $25.00 or 25% of the excessive claim for his or her share of the refund, whichever is greater, and other penalties as provided in this ordinance.

(10) A nonobligated spouse to whom the administrator or the department has sent a notice under subsection (6), who fails to file a nonobligated spouse allocation form within 30 days after the date the notice was mailed, shall be barred from commencing any action against the city or the department to recover an amount withheld to satisfy a liability of the obligated spouse to which a joint tax refund is applied under this section. The payment by the city or the department of any amount applied to a liability of a taxpayer under this section shall release the department or the city and the administrator from all liability to the obligated spouse, the nonobligated spouse, and any other person having or claiming any interest in the amount paid. A payment by the department of treasury under this subsection shall be made from the city income tax trust fund created in section 5 of chapter 1.

(11) As used in this section:

(a) “Nonobligated spouse” means a person who has filed a joint city income tax return and who is not liable for an obligation of his or her spouse described in this ordinance.

(b) “Obligated spouse” means a person who has filed a joint city income tax return and who is liable for an obligation described in this ordinance for which his or her spouse is not liable.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1971, Act 169, Imd. Eff. Dec. 2, 1971;—Am. 1991, Act 198, Eff. Mar. 30, 1992;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.644 Federal income tax return; eliminations.

Sec. 44. Where total income, total deductions, net profits, or other figures are derived from the taxpayer's federal income tax return, any item of income not subject to the city income tax and unallowable deductions shall be eliminated in determining net income subject to the city tax. The fact that a taxpayer is not required to file a federal income tax return does not relieve him from filing a city tax return.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.645 Net profits; consolidated returns.

Sec. 45. For the purpose of determining net profit allocable to the city under this ordinance, a corporate taxpayer may elect to file a consolidated return including subsidiaries whose voting stock is more than 50% owned by the taxpayer, if such return will more properly reflect the net profits and activities of the taxpayer in the city. The city may require a consolidated return if necessary to properly determine net profits of the taxpayer allocable to the city.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.646 Amended return; change of method of accounting.

Sec. 46. An amended return shall be filed with the city or the department, on a form obtainable from the city or the department, if necessary to report additional income and pay an additional tax due, or to claim a refund of tax overpaid. Within 90 days after final determination of a federal tax liability that also affects the computation of a taxpayer's city income tax liability, the taxpayer shall prepare and file with the city or the department an amended city income tax return showing income subject to the city tax based upon the final determination of federal income tax liability, and pay any additional tax shown due on the return or make a claim for refund of an overpayment. A taxpayer shall not change the method of accounting or apportionment of net profits after the due date for filing the original return or any extensions for the filing of the original return.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.651 Withholding of tax by employer; employer as trustee; failure or refusal to deduct and withhold tax; liability; discharge.

Sec. 51. (1) An employer doing business or maintaining an establishment within the city shall withhold from each payment to the employer's employees on and after the effective date of this ordinance the tax on their compensation subject to the tax, after giving effect to exemptions, as follows:

(a) Residents.

(*i*) At a rate equal to the rate set by ordinance to be levied against resident individuals under this ordinance, but not to exceed 3%, of all compensation paid to the employee who is a resident of the city, if the employee is not subject to withholding in any other city levying the tax.

(*ii*) At a rate equal to the difference in the percentage rate of tax on resident individuals as set by ordinance to be levied under this ordinance less the percentage rate of tax levied by any other city in which the employee works, on all compensation earned by the resident in another city.

(b) Nonresidents. At a rate equal to the rate set by ordinance to be levied under this ordinance on nonresidents but not to exceed 50% of the percentage rate imposed on resident individuals of the compensation paid to the employee for work done or services performed in the city designated by the employee as the employee's predominant place of employment. The withholding rate shall be applied to the percentage of the employee's total compensation equal to the employee's estimated percentage of work to be done or services to be performed in the city for that employer, but no withholding shall be required if the estimated percentage of work is less than 25%.

(2) An employer withholding the tax is deemed to hold the tax as a trustee for the city.

(3) An employer who is required to withhold and who fails or refuses to deduct and withhold is liable for the payment of the amount required to be withheld. The liability shall be discharged upon payment of the tax by the employee but the employer is not relieved of penalties and interest provided in this ordinance for this failure or refusal.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1981, Act 60, Imd. Eff. June 5, 1981;—Am. 1982, Act 124, Imd. Eff. Apr. 19, 1982.

141.652 Tax withheld; payments or persons excepted.

Sec. 52. Employers shall not withhold any tax from the following payments or persons:

(a) Compensation paid to domestic help.

(b) Compensation paid to a person who is not an employee, including an independent contractor.

(c) An amount allowed and paid to an employee as reimbursement for expenses necessarily and actually incurred by the employee in the actual performance of his or her services, and that is deductible by the employer.

(d) A qualified taxpayer. “Qualified taxpayer” means that term as defined in section 35(12)(c)(*i*).

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 442, Imd. Eff. Dec. 19, 1996.

141.653 Tax withheld; payment by employee or employer.

Sec. 53. If the tax is not withheld, an employee is not excused from filing a return and paying the tax on his compensation. If the tax is withheld but an employer fails to pay the tax to the city, the employee is not liable for the tax so withheld.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.654 Tax withheld; exemptions claimed; percentage of work done at predominant place of employment; qualified taxpayer within renaissance zone.

Sec. 54. An employee with compensation subject to tax shall file with his or her employer a form on which the employee states the number of exemptions claimed, the city of residence, the predominant place of employment, whether or not the employee claims status as a qualified taxpayer of a renaissance zone, and the percentage of work done or services performed in the predominant place of employment. The percentage shall be expressed as “less than 25%”, “40%”, “60%”, “80%”, or “100%”. The employer shall retain the form, rely on the information on the form for withholding purposes unless directed by the city to withhold on another basis, and, if the employee claims status as a qualified taxpayer based on residency in a renaissance zone, the employer shall forward a copy of the form to the city. If information submitted by the employee is not believed to be true, correct, and complete, the city shall be advised. As used in this section, “Renaissance zone” means that term as defined in section 35.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 442, Imd. Eff. Dec. 19, 1996.

141.655 Tax withheld; revised form; time for filing; qualified taxpayer within renaissance zone.

Sec. 55. (1) Except as provided in subsection (2), an employee shall file with his or her employer a revised form within 10 days after the number of exemptions decreases when a change in residence from or to a taxing city occurs. The employee may file a revised form when the number of exemptions increases. An employee shall file a revised form by December 1 of each year, if his or her predominant place of employment, estimate of the percentage of work done or services to be rendered in the city, or status as a qualified taxpayer of a renaissance zone will change for the ensuing year. Revised withholding certificates shall not be given retroactive effect.

(2) an employee shall file a revised form with his or her employer within 10 days after the employee completes the residency requirements under section 35(12), and when a change of status occurs from resident of a renaissance zone to nonresident of a renaissance zone. The employer shall forward a copy of a revised form filed under this subsection to the city.

(3) As used in this section, “renaissance zone” means that term as defined in section 35.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 442, Imd. Eff. Dec. 19, 1996.

141.656 Refusal by employee to furnish withholding certificate; withholding by employer; report.

Sec. 56. If an employee refuses to furnish a withholding certificate upon the request of his or her employer, the employer shall withhold a percentage of the employee's total compensation equal to the percentage rate of tax on resident individuals as set by ordinance to be levied under this ordinance, and report and pay the withholding on the basis of the best information in the possession of the employer.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1981, Act 60, Imd. Eff. June 5, 1981;—Am. 1982, Act 124, Imd. Eff. Apr. 19, 1982.

141.657 Tax withheld; withholding tables; first compensation taxable.

Sec. 57. (1) The city shall provide withholding tables establishing the amounts to be withheld for various tax rates, wage brackets, numbers of exemptions and pay periods. An employer who uses the tables fully discharges his duty to withhold. An employer may elect not to use the tables, in which case to discharge fully his duty to withhold he shall withhold the applicable per cent of taxable compensation after provision for exemptions.

(2) The first compensation paid an employee on or after the effective date of the tax levy is subject to withholding on either of the following bases at the option of the employer:

(a) On the full amount of compensation paid.

(b) On the proportion of compensation paid for work done or services performed on or after the effective date of the levy.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.658 Tax withheld; overwithheld tax, refund.

Sec. 58. If an employer withholds more than the apparent tax liability of an employee due to an increase in the number of exemptions claimed during the year, or due to the actual percentage of work performed in the city by a nonresident being less than the estimated percentage, or due to a change of residence during the year to or from a taxing city, or due to any reason other than the employer's error, the employer shall neither refund the excess to the employee nor offset the excess by under-withholding in a subsequent period. The employee shall claim his refund from the city on his annual return.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.659 Tax withheld; correction of error, refund.

Sec. 59. Correction of an over or an under-withholding as a result of an employer's error shall be made as follows:

(a) If the error is discovered in the same quarter in which it is made, the employer shall make the necessary adjustment on a subsequent pay and include only the corrected amount on the quarterly return.

(b) If the error is discovered in a subsequent quarter of the same calendar year, the employer shall make the necessary adjustment on a subsequent pay and report it as an adjustment on the quarterly return.

(c) If the error is discovered in the following calendar year, or if the employer-employee relationship has terminated, the procedure shall be as follows:

(*i*) The employee or former employee shall apply to the city for a refund in case of an over-withholding. Upon proper verification the city shall refund to him the amount of the over-withholding.

(*ii*) If a deficiency is discovered, the employer shall notify the city and the employee or former employee, who shall pay the city the additional tax due in his annual return.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.660 Tax withheld; payment by employer; return; electronic funds transfer.

Sec. 60. (1) Except as provided in subsection (2), an employer shall file a return, furnished by or obtainable on request from the city, and pay to the city the full amount of the tax withheld on or before the last day of the month following the close of each calendar quarter.

(2) For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, an employer shall file a return and pay the tax withheld for each calendar month on or before the fifteenth day of the month following the close of each calendar month to the department by means of an electronic funds transfer method approved by the state commissioner of revenue.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.661 Tax withheld; employer's reconciliation of quarterly returns; deficiency; refund; information return; cessation of business.

Sec. 61. (1) An employer shall file with the city or the department a reconciliation of quarterly returns on or before the last day of February following each calendar year in which the employer has withheld from an employee's compensation. A deficiency is due when the reconciliation is filed. If the employer made quarterly payments in excess of the amount withheld from an employee's compensation, the city or the department upon proper verification shall refund the excess to the employer.

(2) In addition to the reconciliation, the employer shall file with the city or the department an information return for each employee from whom the city income tax has been withheld and each employee subject to withholding under this ordinance, setting forth his or her name, address, and social security number, the total amount of compensation paid him or her during the year, and the amount of city income tax withheld. The information return shall be on a copy of the federal W-2 form or on a form furnished or approved by the city or the department. A copy of the information return shall be furnished to the employee.

(3) Except as provided in subsection (4), if an employer goes out of business or otherwise ceases to be an employer, reconciliation forms and the information return forms shall be filed with the city by the date the final withholding return and payment are due.

(4) For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, if an employer goes out of business or otherwise ceases to be an employer, reconciliation forms and the information return forms shall be filed with the department within 30 days after the employer goes out of business or ceases to be an employer.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.662 Declaration of estimated tax; filing; form; time; exceptions.

Sec. 62. (1) A person who anticipates taxable income from which the city income tax will not be withheld with the city or the department shall file a declaration of estimated tax on a form furnished by or obtainable on request from the city or from the department if the city has entered into an agreement pursuant to section 9 of chapter 1. A calendar year taxpayer shall file a declaration on or before each April 30 or for tax years after the 1996 tax year and for which a city has entered into an agreement with the department of treasury pursuant to section 9 of chapter 1, on or before each April 15. A taxpayer on a fiscal year basis or other accounting period shall file with the department a declaration within 4 months after the beginning of each fiscal year or other accounting period.

(2) If a taxpayer has not previously been required to file, the declaration shall be filed on or before the first date for making a quarterly payment that occurs after the taxpayer becomes subject to the requirement to file a declaration. A taxpayer shall file a declaration for the same calendar year, fiscal year, or other accounting period that has been accepted by the federal internal revenue service for federal income tax purposes. A declaration by an individual or unincorporated entity is not required if the total estimated tax, less any credits applicable to the tax, does not exceed $100.00. A declaration by a corporation is not required if the total estimated tax, less any credits applicable to the tax, does not exceed $250.00. A declaration by or on behalf of an estate or trust is not required.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1990, Act 249, Imd. Eff. Oct. 12, 1990;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.663 Declaration of estimated tax not withheld; computation; payment; installments.

Sec. 63. (1) A taxpayer's annual return for the preceding year may be used as the basis for computing a declaration of estimated tax for the current year, or the taxpayer may use the same figures used for estimating federal income tax adjusted to exclude any income or deductions not taxable or permissible under this ordinance.

(2) Except as otherwise provided, the estimated tax may be paid in full with the declaration or in 4 equal installments on or before the last day of the fourth, sixth, ninth, and thirteenth months after the beginning of the taxpayer's taxable year. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, the estimated tax shall be paid in 4 equal installments on or before the fifteenth day of the fourth, sixth, ninth, and thirteenth months after the beginning of the taxpayer's taxable year.

(3) An amended declaration may be filed when making a quarterly payment, and the unpaid balance shown due shall be paid in equal installments over the remaining payment dates.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.664 Annual return; filing; extension of time; failure to file; penalty.

Sec. 64. (1) The filing of a declaration of estimated tax does not excuse the taxpayer from filing an annual return even though there is no change in the declared tax liability. An annual return shall be filed with the city by the end of the fourth month or for tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, filed with the department on or before the fifteenth day of the fourth month of the year following that for which the declaration was filed. Upon written request of a taxpayer the administrator or the department may extend the time for filing the annual return for not to exceed 6 months. The administrator or the department may require a tentative return and payment of the estimated tax.

(2) A penalty or interest shall not be assessed if the return is filed and the final tax paid within the extended time and all other filing and payment requirements of this ordinance are satisfied, and the estimated tax paid equals 70% or more of the tax shown due on the final return or 70% or more of the tax shown due on the taxpayer's return for the immediately preceding taxable year.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.664a Sale of business or stock of goods or quitting business; liability for tax; escrow by purchaser; release to purchaser of known tax liability; failure to comply with escrow requirements; liability of corporation officers.

Sec. 64a. (1) If a person liable for the tax imposed under this ordinance sells a business or the stock of goods of a business or quits a business, the person shall make a final return to the city or the department within 15 days after the date the business or stock of goods is sold or the person quits the business. The purchaser or succeeding purchasers, if any, who purchase a going or closed business or stock of goods of a going or closed business shall escrow sufficient money to cover the amount of taxes, interest, and penalties that may be due and unpaid until the former owner produces a receipt from the administrator that shows that the taxes due have been paid, or a certificate that states that taxes are not due. If the owner provides a written waiver of confidentiality, the administrator may release to a purchaser a business's known tax liability for the purposes of establishing an escrow account for the payment of taxes. If the purchaser or succeeding purchasers of a business or stock of goods of a business fail to comply with the escrow requirements of this subsection, the purchaser is personally liable for the payment of the taxes, interest, and penalties accrued and unpaid by the business of the former owner. The purchaser's or succeeding purchaser's personal liability is limited to the fair market value of the business less the amount of any proceeds applied to balances due on secured interests that are superior to any lien provided for in this ordinance.

(2) If a corporation that is liable for the tax imposed under this ordinance fails for any reason to file the required returns or to pay the tax due, any officers of the corporation that have control or supervision of, or who are charged with the responsibility for, making the returns or payments are personally liable for the failure to file or pay. The signature of any corporate officer on a return or negotiable instrument submitted in payment of a tax is prima facie evidence of the officer's responsibility for making the returns and payments. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit a tax due. The sum due for a liability may be assessed and collected under this ordinance.

History: Add. 1996, Act 478, Eff. Jan. 1, 1997.

141.665 Credit for city income tax paid another city.

Sec. 65. An individual who is a resident of the city and received net profits from a business, profession or rental of real or tangible personal property, gains from the sale or exchange of real or tangible personal property, or salaries, wages, commissions or other compensation for work done or services performed or rendered, in each case outside the city, and is subject to and has paid an income tax on this income to another municipality, shall be allowed a credit against the city income tax for the amount paid to the other municipality. The credit shall not exceed the amount of taxes which would be assessed under this ordinance on the same amount of income of a nonresident.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.666 Fractional part of a cent or dollar.

Sec. 66. In withholding the tax due under this ordinance, a fractional part of a cent shall be disregarded unless it amounts to 1/2 cent or more, in which case it shall be increased to 1 cent. For tax years after the 1996 tax year in paying the tax due under this ordinance if any amount other than a whole dollar amount is used, the administrator, or the department shall disregard the fractional part of the dollar unless the fractional part amounts to 1/2 dollar or more, in which case the amount shall be increased by $1.00.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.671 Rules and regulations; adoption; enforcement; forms; collection of tax.

Sec. 71. (1) The administrator may adopt, amend, and repeal rules and regulations relating to the administration and enforcement of this ordinance subject to the approval of the city governing body. The rules and regulations, amendments, and repeals, after approval by the city governing body, shall become effective when published in the official newspaper of the city.

(2) The administrator shall enforce this ordinance and the rules and regulations approved as provided in subsection (1). The administrator or the department shall prepare, adopt, and make available to taxpayers, employers, and other persons all forms necessary for compliance with this ordinance.

(3) For tax years before the 1997 tax year and for tax years after the 1996 tax year and for which a city has not entered into an agreement pursuant to section 9 of chapter 1, the city treasurer shall collect all taxes and payments due under this ordinance and deposit them in a designated city depository. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, the department shall collect taxes and payments due under this ordinance and deposit them in the city income tax trust fund established in section 5 of chapter 1.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.672 Special ruling; appeal to income tax board of review.

Sec. 72. A taxpayer or employer desiring a special ruling on a matter pertaining to this ordinance or rules and regulations shall submit in writing to the administrator all the facts involved and the ruling sought. A taxpayer or employer aggrieved by a special ruling may appeal the special ruling in writing to the income tax board of review within 30 days.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.673 Examination of books and records; witnesses; additional provisions relating to dispute resolution; protest to notice of intent to assess tax.

Sec. 73. (1) If a taxpayer or employer fails or refuses to make a return or payment as required, in whole or in part, or if the administrator or the department has reason to believe that a return made does not supply sufficient information for an accurate determination of the amount of tax due, the administrator or the department may obtain information on which to base an assessment of the tax. The administrator or the department may examine the books, papers, and records of any person, employer, taxpayer, or agent or representative of any person, employer, or taxpayer or audit the accounts of any person, employer, or taxpayer or any other records pertaining to the tax, to verify the accuracy and completeness of a return filed, or, if no return was filed, to ascertain the tax, withholding, penalties, or interest due under this ordinance.

(2) The administrator or the department may examine any person, under oath, concerning income which was or should have been reported for taxation under this ordinance, and for this purpose may compel the production of books, papers, and records and the attendance of all parties before him or her, whether as parties or witnesses, if he or she believes those persons have knowledge of the income. In addition, for tax years after the 1996 tax year and for which a city has entered into an agreement with the department of treasury pursuant to section 9 of chapter 1, all of the following apply to implement this section:

(a) The department of treasury shall send to the taxpayer or employer a letter of inquiry stating, in a courteous and unintimidating manner, the department's opinion that the taxpayer or employer needs to furnish further information or owes taxes to the city, and the reason for that opinion. A letter of inquiry shall also explain the procedure by which the taxpayer or employer may initiate communication with the department to resolve any dispute. A letter of inquiry may be served on the taxpayer in any manner determined appropriate by the department of treasury. This subdivision does not apply in any of the following circumstances:

(*i*) The taxpayer or employer files a return that shows a tax due and fails to pay that tax.

(*ii*) The deficiency resulted from an audit of the taxpayer's or employer's books and records by the city or the department.

(*iii*) The taxpayer or employer otherwise affirmatively admits that a tax is due and owing.

(b) If the dispute is not resolved within 30 days after the department of treasury sends the taxpayer or employer a letter of inquiry or if a letter of inquiry is not required under subdivision (a), the department, after determining the amount of tax due from a taxpayer or employer, shall give notice to the taxpayer or employer of the department of treasury's notice of intent to assess the tax. The notice shall include all of the following:

(*i*) The amount of the tax the department of treasury claims the taxpayer or employer owes.

(*ii*) The reason for the deficiency.

(*iii*) A statement advising the taxpayer or employer of his or her right to file a protest and to a hearing with the department of treasury.

(3) A taxpayer or employer has 30 days after receipt of a notice of intent to assess within which to file a written protest with the department of treasury. If a written protest is received, the department of treasury shall give the taxpayer or employer or duly authorized representative of the taxpayer or employer an opportunity to be heard and present evidence and arguments in his or her behalf.

(4) If a protest to the notice of intent to assess the tax under subsection (2) is determined by the department of treasury to be a frivolous protest or a desire by the taxpayer or employer to delay or impede the administration of the tax under this ordinance, a penalty of $25.00 or 25% of the amount of tax under protest, whichever is greater, shall be added to the tax.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.674 Information confidential; divulgence, penalty, discharge from employment.

Sec. 74. (1) Information gained by the administrator, city treasurer or any other city official, agent or employee as a result of a return, investigation, hearing or verification required or authorized by this ordinance is confidential, except for official purposes in connection with the administration of the ordinance and except in accordance with a proper judicial order.

(2) Any person who divulges this confidential information, except for official purposes, is guilty of a misdemeanor and subject to a fine not exceeding $500.00 or imprisonment for a period not exceeding 90 days, or both, for each offense. In addition, an employee of the city who divulges this confidential information is subject to discharge for misconduct.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.681 Repealed. 1996, Act 478, Eff. Jan. 1, 1996.

Compiler's note: The repealed section pertained to examination and investigation.

141.682 Payment of tax; interest; "adjusted prime rate" defined; penalty for delay; waiver of penalty for reasonable cause.

Sec. 82. (1) All taxes imposed in a taxable year before the 1992 taxable year on a taxpayer and money withheld by an employer under this ordinance and remaining unpaid after the taxes or money withheld are due bear interest from the due date at the rate of 1/2 of 1% per month until paid. For the 1992 taxable year and each subsequent taxable year before the 1997 taxable year, all taxes imposed on a taxpayer and money withheld by an employer under this ordinance and remaining unpaid after the taxes or money withheld are due bear interest from the due date at the current monthly rate of 1 percentage point above the adjusted prime rate per annum per month until the tax or money is paid. For taxable years after the 1996 taxable year, if the amount of a tax paid is less than the amount that should have been paid or an excessive claim for credit has been made, the deficiency and interest on the deficiency at the current monthly interest rate of 1 percentage point above the adjusted prime rate per annum from the time the tax was due, and until paid, are due and payable after a final assessment as provided in section 85. A deficiency in an estimated payment required by this ordinance shall be treated in the same manner as a tax due and is subject to the same current monthly interest rate of 1 percentage point above the adjusted prime rate per annum from the time the payment was due, until paid. The term "adjusted prime rate" means the average predominant prime rate quoted by not less than 3 commercial banks to large businesses, as determined by the department of treasury. For tax years before the 1997 tax year, the adjusted prime rate is to be based on the average prime rate charged by not less than 3 commercial banks during the 12-month period ending on September 30. One percentage point shall be added to the adjusted prime rate, and the resulting sum shall be divided by 12 to establish the current monthly interest rate. The resulting current monthly interest rate based on the 12-month period ending September 30 becomes effective on January 1 of the following year. For tax years after the 1996 tax year, “adjusted prime rate” means that term as defined in and determined under section 23(2) of Act No. 122 of the Public Acts of 1941, being section 205.23 of the Michigan Compiled Laws.

(2) A person who fails to file a return, pay the tax, or remit withholding, when due, is liable, in addition to the interest, to a penalty of 1% of the amount of the unpaid tax for each month or fraction of a month, not to exceed a total penalty of 25% of the unpaid tax. If a return is filed or remittance is paid after the time specified and it is shown to the satisfaction of the city or the department that the failure was due to reasonable cause and not to willful neglect, the penalty shall be waived by the administrator or the department. If the total interest or interest and penalty to be assessed is less than $2.00, the administrator or the department shall instead assess $2.00.

(3) Except as provided in subsection (4), if any part of the deficiency or an excessive claim for credit is due to negligence, but without intent to defraud, a penalty of $10.00 or 10% of the total amount of the deficiency in the tax, whichever is greater, plus interest as provided in subsection (1), shall be added. The penalty becomes due and payable after a final assessment is issued as provided in section 85. If a taxpayer subject to a penalty under this subsection demonstrates to the satisfaction of the administrator or the department that the deficiency or excess claim for credit was due to reasonable cause, the administrator or the department shall waive the penalty.

(4) If any part of the deficiency or an excessive claim for credit is due to intentional disregard of this ordinance, but without intent to defraud, a penalty of $25.00 or 25% of the total amount of the deficiency in the tax, whichever is greater, plus interest as provided in subsection (1), shall be added. The penalty becomes due and payable after a final assessment is issued as provided in section 85. If a penalty is imposed under this subsection and the taxpayer subject to the penalty successfully disputes the penalty, the administrator or the department shall not impose a penalty prescribed by subsection (3) to the tax otherwise due.

(5) If any part of the deficiency or an excessive claim for credit is due to fraudulent intent to evade the tax imposed under this ordinance, or to obtain a refund for a fraudulent claim, a penalty of 100% of the deficiency, plus interest as provided in subsection (1), shall be added. The penalty becomes due and payable after a final assessment is issued as provided in section 85 .

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1991, Act 198, Eff. Mar. 30, 1992;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.683 Additional tax assessment; when interest and penalty not imposed.

Sec. 83. (1) Interest or a penalty shall not be imposed on an additional tax assessment if, within 90 days from final determination of a federal tax liability which also affects the computation of the taxpayer's city income tax liability, the taxpayer prepares and files an amended city income tax return showing income subject to the city tax based upon the final determination of federal income tax liability, and pays the additional tax shown due thereon or makes claim for refund of an overpayment. Interest shall not be allowed on a refund of the city income tax resulting from a final determination of federal tax liability.

(2) Interest and a penalty shall not be imposed for underestimating the tax if the total amount of tax withheld and paid by declaration, equals at least 70% or more of the tax shown due on the final return or 70% or more of the tax shown on the taxpayer's return for the preceding taxable year.

(3) An employee shall not be penalized because of the failure of his employer to report or pay tax withheld from the employee when the employer has in fact withheld the proper amount of tax.

History: 1964, Act 284, Imd. Eff. June 12, 1964.

141.684 Due and unpaid assessment; determination; procedure.

Sec. 84. (1) For tax years before the 1997 tax year and for tax years after the 1996 tax year and for which a city has not entered into an agreement pursuant to section 9 of chapter 1, if the administrator determines that a taxpayer or an employer subject to the provisions of this ordinance has failed to pay the full amount of the tax due or tax withheld, he or she shall issue a proposed assessment showing the amount due and unpaid, together with interest and penalties that may have accrued thereon. The proposed assessment shall be served upon the taxpayer or employer in person or by registered or certified mail to the last known address of the taxpayer or employer. Proof of mailing the proposed assessment is prima facie evidence of a receipt of the proposed assessment by the addressee.

(2) A taxpayer or employer has 30 days after receipt of a proposed assessment within which to file a

written protest with the administrator or 30 days after receipt of a notice of intent to assess from the department of treasury to file a written protest with the department of treasury, who shall then give the taxpayer or employer or his or her duly authorized representative an opportunity to be heard and present evidence and arguments in his or her behalf.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.685 Final assessment; protest.

Sec. 85. (1) After the hearing as provided in section 84, the administrator or the department shall issue a final assessment setting forth the total amount found due in the proposed assessment or notice of intent to assess and any adjustment he or she may have made as a result of the protest. The final assessment shall be served in the same manner as a proposed assessment or notice of intent to assess. Proof of mailing of the final assessment is prima facie evidence of receipt of the final assessment by the addressee.

(2) If a protest under section 73(3) or 84(2) is not filed in respect to a proposed assessment or notice of intent to assess, a taxpayer or employer is considered to have received a final assessment 30 days after receipt of the proposed assessment.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.686 Failure to pay tax; demand; recovery; prosecution.

Sec. 86. If an employer or taxpayer files a return showing the amount of tax or withholding due the city or the department, but fails to pay the amount to the city or the department, the administrator or the department is not required to issue a proposed assessment, notice of intent to assess, or a final assessment. The administrator or the department shall issue a 10-day demand for payment and if no payment or satisfactory evidence of payment is made in the 10 days the administrator or the department may recover the tax with interest and penalties in the name of the city in any court of competent jurisdiction as other debts are recoverable, or prosecute for violation of this ordinance under section 99, or both.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1971, Act 169, Imd. Eff. Dec. 2, 1971;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.687 Jeopardy assessment; procedure.

Sec. 87. (1) If the administrator or the department believes that collection of the tax withheld from an employee's compensation as imposed under this ordinance will be jeopardized by delay, the administrator or the department, whether or not the time otherwise prescribed by the ordinance for making the return and paying the tax has expired, shall immediately assess the tax and interest and additions provided by the ordinance. The tax, interest, and additions shall become immediately due and payable, and the administrator or the department shall make an immediate notice and demand for payment, notwithstanding when the withheld tax is otherwise due and payable.

(2) If the administrator or the department finds that a person liable for the tax administered under this ordinance intends quickly to depart from the city or to remove property from this city, to conceal the person or the person's property in the city, or to do any other act tending to render wholly or partly ineffectual proceedings to collect the tax unless proceedings are brought without delay, the administrator or the department of treasury shall give notice of the findings to the person, together with a demand for an immediate return and immediate payment of the tax. A warrant or warrant-notice of levy may issue immediately upon issuance of a jeopardy assessment. When the warrant or warrant-notice is issued, the tax shall become immediately due and payable. If the person is not in default in making a return or paying a tax prescribed by this ordinance, and furnishes evidence satisfactory to the administrator or the department that the return will be filed and the tax to which the finding relates will be paid, then the tax shall not be payable before the time otherwise fixed for payment.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.688 Statute of limitations; waiver; payment of tax.

Sec. 88. (1) Except in case of fraud, failure to file a return, failure to comply with the withholding provisions of this ordinance, or omission of substantial portions of income subject to the tax, an additional assessment shall not be made after 4 years from the date the return was due, including extensions, or from the date the return was filed, or the tax was paid, whichever is later. An omission of more than 25% of gross income is considered a substantial omission of income. Under this section a declaration of estimated tax is not considered a return.

(2) If the federal internal revenue service and a taxpayer execute a waiver of the federal statute of limitations, as to a taxable year, the expiration of the period within which an additional assessment may be

made by the administrator or the department or a claim for refund filed by the taxpayer for such taxable year for city income tax purposes shall be 6 months from the date of expiration of the waiver.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.689 Statute of limitations; refund.

Sec. 89. (1) Except as otherwise provided in this ordinance, a tax erroneously paid shall not be refunded unless a claim for refund is made within 4 years from the date the payment was made or the original final return was due, including extensions, whichever is later, unless the administrator or the department and the taxpayer mutually agree to extend the time for assessment or refund. Under this section a declaration of estimated tax is not considered a return. Upon denial of a refund a taxpayer may follow the same procedure for appeal as provided in the case of a deficiency assessment.

(2) A tax deficiency as finally determined and interest or penalties thereon shall be paid within 30 days after receipt of a final assessment if no appeal is made.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.691 Income tax board of review; appointment of city residents; selection of officers; adoption, filing, inspection, and copies of rules of procedure; quorum; conflict of interests; record of transactions and proceedings; availability of record and other writings to public; conducting business at public hearing; notice of hearing.

Sec. 91. (1) The governing body of the city shall appoint an income tax board of review consisting of 3 residents of the city who are not city officials or city employees.

(2) The board shall select a chairperson, secretary, and other officers as the board considers necessary and shall adopt rules governing the procedure for hearings and other procedures. The rules shall be filed in the office of the city clerk and shall be available for inspection by an interested person. A copy of the rules shall be furnished on request to an interested person.

(3) A majority of the board members shall constitute a quorum for an action by or hearing before the board, or for any other purpose. A member of the board shall not act on a matter in which the member has a financial interest other than the common public interest. A record shall be kept of the board's transactions and proceedings. The record and any other writing prepared, owned, used, in the possession of, or retained by the board of review in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

(4) The business which the board may perform shall be conducted at a public hearing of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1977, Act 175, Imd. Eff. Nov. 17, 1977.

141.692 Income tax board of review; notice of appeal; transcript; hearing; confidential tax data; payment of deficiency or refund.

Sec. 92. (1) A taxpayer or employer may file a written notice of appeal with the secretary of the income tax board of review not more than 30 days after receipt by the taxpayer or employer of a final assessment, denial in whole or part of a claim for refund, decision, order, or special ruling of the administrator or the department. Upon receipt of the notice of appeal, the income tax board of review shall notify the administrator or the department, who shall forward within 15 days to the income tax board of review a certified transcript of all actions and findings taken by the administrator or the department that relate to the matter under appeal. The appellant or his or her duly authorized representative may inspect the transcript.

(2) The income tax board of review shall grant the appellant a hearing at which the appellant or his or her duly authorized representative and the administrator or the department have an opportunity to present evidence that relates to the matter under appeal. After conclusion of the hearing, the income tax board of review by a majority vote of its 3 members shall affirm, reverse, or modify the final assessment, denial, decision, or order under appeal and furnish a copy of the decision to the appellant and to the administrator or the department.

(3) The provisions of this ordinance as to the confidential character of tax data are applicable to proceedings pending before or submitted to the income tax board of review.

(4) A tax deficiency or refund and any interest or penalties on a deficiency or refund shall be paid not more than 30 days after receipt by the taxpayer or employer or by the city or the department of notice of determination by the income tax board of review if no further appeal is made.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.693 Appeal to state tax commissioner or tax tribunal; procedure.

Sec. 93. (1) A taxpayer, employer, or other person aggrieved by a rule adopted by the administrator may file a timely appeal to the state commissioner of revenue in the form and manner prescribed by the commissioner.

(2) A taxpayer or employer aggrieved by a final assessment, denial, decision, or order of the income tax board of review other than a decision under subsection (1), may appeal the assessment, denial, decision, or order to the tax tribunal not more than 35 days after the final assessment, denial, decision, or order was issued. The uncontested portion of a final assessment, order, or decision shall be paid as a prerequisite to appeal. An appeal under this subsection shall be perfected as provided under the tax tribunal act, Act No. 186 of the Public Acts of 1973, being sections 205.701 to 205.779 of the Michigan Compiled Laws, and rules promulgated under that act for the tax tribunal.

(3) Not more than 35 days after a final order of the tax tribunal, the taxpayer, employer, or other person shall pay the city the taxes, interest, and penalty found due to the city or the department, and the city or the department shall refund to the taxpayer, employer, or other person any amount found to have been overpaid by the taxpayer, employer, or other person.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1969, Act 42, Imd. Eff. July 17, 1969;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.694 Appeal to court of appeals or supreme court; procedure.

Sec. 94. (1) If a taxpayer, employer, other person, or the city or the department is aggrieved by a decision of the tax tribunal, the aggrieved party may take an appeal by right from a decision of the tax tribunal to the court of appeals. The appeal shall be taken on the record made before the tax tribunal. The taxpayer, employer, other person, city, or department may take further appeal to the supreme court in accordance with the court rules provided for appeals to the supreme court.

(2) An assessment is final, conclusive, and not subject to further challenge after 90 days after the issuance of the final assessment, decision, or order of the administrator or the department, and a person is not entitled to a refund of any tax, interest, or penalty paid pursuant to an assessment unless the aggrieved person has appealed the assessment in the manner provided by this ordinance.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.695 Payment to taxpayer from city general fund or city income tax trust fund.

Sec. 95. For tax years before the 1997 tax year and for tax years after the 1996 tax year and for which a city has not entered into an agreement pursuant to section 9 of chapter 1, if a taxpayer is found by a decision on an appeal entitled to recover any sum paid and further appeal has not been taken within the time permitted, the sum shall be paid from the general fund of the city. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, if a taxpayer is found by a decision on an appeal to be entitled to recover any sum paid and further appeal has not been taken within the time permitted, the sum shall be paid from the the city income tax trust fund established in section 5 of chapter 1.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

Compiler's note: At the end of the second sentence of this section, the phrase “paid from the the city income tax” evidently should read “paid from the city income tax.”

141.699 Violations; misdemeanor; penalties.

Sec. 99. Each of the following violations of this ordinance is a misdemeanor and is punishable, in addition to the interest and penalties provided under the ordinance, by a fine not exceeding $500.00, or imprisonment for a period not exceeding 90 days, or both:

(a) Wilful failure, neglect or refusal to file a return required by the ordinance.

(b) Wilful failure, neglect or refusal to pay the tax, penalty or interest imposed by the ordinance.

(c) Wilful failure of an employer or person to withhold or pay to the city a tax as required by the ordinance.

(d) Refusal to permit the city or an agent or employee appointed by the administrator in writing to examine the books, records and papers of a person subject to the ordinance.

(e) Knowingly filing an incomplete, false, or fraudulent return.

(f) Attempting to do or doing anything whatever in order to avoid full disclosure of the amount of income or to avoid the payment of any or all of the tax.

History: 1964, Act 284, Imd. Eff. June 12, 1964;—Am. 1978, Act 93, Imd. Eff. Apr. 4, 1978.

CHAPTER 3

ALTERNATIVE PROVISIONS

141.701 Alternative provisions; adoption.

Sec. 1. The governing body of a city may adopt sections 60, 61 and 87 of this chapter in lieu of sections 60, 61 and 87 of chapter 2.

History: Add. 1969, Act 42, Imd. Eff. July 17, 1969.

141.760 Tax withheld; return; payment; electronic funds transfer.

Sec. 60. (1) Except as provided in subsection (2), an employer shall file a return, furnished by or obtainable on request from the city, and pay to the city the full amount of the tax withheld on or before the last day of the month following the close of each calendar quarter, except that if during any calendar month other than the last month of a calendar quarter the amount withheld exceeds $100.00, the employer shall deposit the amount withheld with the city treasurer before the end of the next calendar month.

(2) For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, an employer shall file a return and pay the tax withheld for each calendar month on or before the fifteenth day of the month to the department following the close of each calendar month by means of an electronic funds transfer method approved by the state commissioner of revenue.

History: Add. 1969, Act 42, Imd. Eff. July 17, 1969;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.761 Tax withheld; reconciliation of quarterly returns; deficiencies; refunds; information returns; cessation of business.

Sec. 61. (1) An employer shall file with the city or the department a reconciliation of quarterly returns on or before the last day of February following each calendar year in which the employer has withheld from an employee's compensation. A deficiency is due when the reconciliation is filed. If the employer made monthly or quarterly or both, payments in excess of the amount withheld from an employee's compensation, the city or the department upon proper verification shall refund the excess to the employer.

(2) In addition to the reconciliation the employer shall file with the city or the department an information return for each employee from whom the city income tax has been withheld and each employee subject to withholding under this ordinance, setting forth his or her name, address and social security number, the total amount of compensation paid him or her during the year, and the amount of city income tax withheld from him or her. The information return shall be on a copy of the federal W-2 form or on a form furnished or approved by the city or the department. A copy of the information return shall be furnished to the employee.

(3) Except as provided in subsection (4), if an employer goes out of business or otherwise ceases to be an employer, reconciliation forms and the information return forms shall be filed with the city by the date the final withholding return and payment are due.

(4) For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, if an employer goes out of business or otherwise ceases to be an employer, reconciliation forms and the information return forms shall be filed with the department within 30 days after the employer goes out of business or ceases to be an employer.

History: Add. 1969, Act 42, Imd. Eff. July 17, 1969;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

141.787 Jeopardy assessment; procedure.

Sec. 87. (1) If the administrator or the department believes that collection of the tax withheld from an employee's compensation as imposed under this ordinance will be jeopardized by delay, the administrator or the department of treasury, whether or not the time otherwise prescribed by the ordinance for making the return and paying or depositing the tax has expired, shall immediately assess the tax and interest and additions provided by the ordinance. The tax, interest, and additions shall become immediately due and payable and the administrator or the department of treasury shall make an immediate notice and demand for payment, notwithstanding when the withheld tax is otherwise due and payable.

(2) If the administrator or the department finds that a person liable for the tax administered under this ordinance intends quickly to depart from the city or to remove property from this city, to conceal the person or the person's property in the city, or to do any other act tending to render wholly or partly ineffectual proceedings to collect the tax unless proceedings are brought without delay, the administrator or the department of treasury shall give notice of the findings to the person, together with a demand for an immediate return and immediate payment of the tax. A warrant or warrant-notice of levy may issue immediately upon issuance of a jeopardy assessment. When the warrant or warrant-notice is issued, the tax shall become immediately due and payable. If the person is not in default in making a return or paying a tax prescribed by this ordinance, and furnishes evidence satisfactory to the administrator or the department of

treasury that the return will be filed and the tax to which the finding relates will be paid, then the tax shall not be payable before the time otherwise fixed for payment.

History: Add. 1969, Act 42, Imd. Eff. July 17, 1969;—Am. 1996, Act 478, Eff. Jan. 1, 1997.

CITY UTILITY USERS TAX ACT
Act 198 of 1970

141.801-141.837 Expired. 1984, Act 349, Eff. June 30, 1988.

COUNTY TAX ON BUSINESSES OF PROVIDING ROOMS FOR TRANSIENT GUESTS
Act 232 of 1971

141.851-141.855 Repealed. 1991, Act 180, Imd. Eff. Dec. 26, 1991.

EXCISE TAX ON BUSINESS OF PROVIDING ACCOMMODATIONS
Act 263 of 1974

AN ACT to permit counties to impose and collect an excise tax on persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests; to provide for the disposition of the revenues thereof; and to prescribe penalties.

History: 1974, Act 263, Imd. Eff. Aug. 7, 1974.

Popular name: Accommodations Tax Act

The People of the State of Michigan enact:

141.861 Definitions.

Sec. 1. As used in this act:

(a) "Accommodations" means the room or other space provided for sleeping, including furnishings and other accessories therein. Accommodations do not include food and beverages.

(b) "Administrator" means the official designated by the county to collect the tax and to administer and enforce the ordinance.

(c) "Convention and entertainment facilities" means all or any part, or any combination of convention halls, auditoriums, stadiums, music halls, arenas, meeting rooms, exhibit areas, and related public areas.

(d) "Person" means a natural person, partnership, fiduciary, association, corporation, or other entity.

(e) "Revenues" means the income derived from the tax, plus interest and penalties imposed by this act, levied and assessed under an ordinance adopted pursuant to this act.

(f) "Transient guest" means a natural person staying less than 30 consecutive days.

History: 1974, Act 263, Imd. Eff. Aug. 7, 1974.

Popular name: Accommodations Tax Act

141.862 Excise tax on persons engaged in business of providing rooms for dwelling, lodging, or sleeping purposes to transient guests; exempt accommodations; amendment or repeal of ordinance; tax rate; compliance with subsection (1).

Sec. 2. (1) The county board of commissioners of a county having a population of less than 600,000 persons, and having a city of at least 40,000 population may enact an ordinance to levy, assess, and collect an excise tax from all persons engaged in the business of providing rooms for dwelling, lodging, or sleeping purposes, except in hospitals or nursing homes, to transient guests, whether or not membership is required for the use of the accommodations.

(2) If a county meets the requirements of subsection (1) on the date it enacts an ordinance under this act and, after the 1990 decennial census, the county has a population of less than 120,000 persons and has a city with a population of 35,000 or more persons, that county may continue to levy, assess, and collect the excise tax under this act until October 1, 1991.

(3) If a county described in subsection (2) has any accommodations located within the county that are also located within the boundaries of a city in which the majority of the population of that city reside in an adjoining county, then the accommodation is exempt from the tax under this act.

(4) If a county described in subsection (2) has any accommodations located within the county that are also located within the boundaries of a city with a population of less than 5,000 persons, then the accommodation is exempt from tax under this act.

(5) The ordinance provided by this act may be amended or repealed in the same manner as it was adopted.

(6) The tax imposed pursuant to this act shall be at a rate of not more than 5% of the total charge for accommodations subject to this act.

(7) If a county meets the requirements of subsection (1) on the date it enacts an ordinance under this act, the county may continue to levy, assess, and collect the excise tax under this act.

History: 1974, Act 263, Imd. Eff. Aug. 7, 1974;—Am. 1991, Act 91, Imd. Eff. July 31, 1991;—Am. 2004, Act 118, Imd. Eff. May 27, 2004.

Popular name: Accommodations Tax Act

141.863 Mandatory provisions of ordinance.

Sec. 3. A county levying a tax pursuant to an ordinance adopted under this act shall provide in the ordinance for:

(a) The effective date of the ordinance which shall be in accordance with section 5.

(b) The rate of the tax to be imposed.

(c) The rate and manner of the imposition of interest and penalties for delinquency in payment of taxes or other violations of the ordinance. The interest imposed on delinquency in payment of the tax shall not be more than 1% per month or fraction thereof of the unpaid tax after the due date thereof until paid. The penalty for delinquency in payment of the tax when due or other violations of the ordinance may be in addition to the interest but shall not be more than 5% of the amount of the unpaid tax per month or fraction thereof after the due date thereof until paid. However, the penalty shall not exceed 25% of the unpaid tax.

(d) The determination and allowance of abatements and refunds.

(e) The designation of the administrator of the tax and methods of collection.

History: 1974, Act 263, Imd. Eff. Aug. 7, 1974.

Popular name: Accommodations Tax Act

141.864 Discretionary provisions of ordinance.

Sec. 4. A county levying a tax under this act may provide in the ordinance for:

(a) The adoption and enforcement of rules to apply, interpret, effectuate, and administer the ordinance and the purposes of the tax.

(b) The prescribing and furnishing to taxpayers of forms, instructions, manuals, and other materials necessary for indorsement of the tax and the auditing of tax returns.

(c) The examination by the administrator or his agent of the books and records of a taxpayer for purposes of determining the correctness of a tax return or information filed, or the determination of any tax liability thereunder.

(d) The imposition of a fine of not more than $500.00, or imprisonment of not more than 90 days, or both for violation of the ordinance.

History: 1974, Act 263, Imd. Eff. Aug. 7, 1974.

Popular name: Accommodations Tax Act

141.865 Effective date of ordinance.

Sec. 5. An ordinance adopted pursuant to this act shall not become effective before the first day of the month following the expiration of 60 days after the ordinance is adopted.

History: 1974, Act 263, Imd. Eff. Aug. 7, 1974.

Popular name: Accommodations Tax Act

141.866 Taxes cumulative.

Sec. 6. The taxes levied under this act shall be in addition to any other taxes, charges, or fees.

History: 1974, Act 263, Imd. Eff. Aug. 7, 1974.

Popular name: Accommodations Tax Act

141.867 Deposit and use of revenues.

Sec. 7. The revenues derived from the taxes imposed pursuant to this act shall be deposited in a special fund to be used by the county or by an authority that is organized pursuant to state law, together with other available funds only to pay:

(a) The cost of administration and enforcement of the ordinance.

(b) The financing of the acquisition, construction, improvement, enlargement, repair, or maintenance of convention and entertainment facilities, including, except as provided in subdivision (e), the payment of principal and interest, when due, on bonds or other evidence of indebtedness issued by the county for convention and entertainment facilities.

(c) Except as provided in subdivision (e), current or future annual rental payable by the county to an authority organized pursuant to state law for the purpose of acquiring, constructing, improving, enlarging, repairing, or maintaining the convention and entertainment facilities and leasing them to the county.

(d) The promotion and encouragement of tourist and convention business in the county.

(e) The principal and interest, when due, on bonds or other evidence of indebtedness issued by or on behalf of the county for the purpose of financing the construction of a museum, or the current or future rental payable by the county to an authority organized pursuant to state law for the purpose of constructing a museum and leasing it to the county, only if the museum is located in a city with a population of 180,000 or more.

History: 1974, Act 263, Imd. Eff. Aug. 7, 1974;—Am. 1989, Act 13, Imd. Eff. May 10, 1989.

Popular name: Accommodations Tax Act

COMMUNITY CONVENTION OR TOURISM MARKETING ACT
Act 395 of 1980

AN ACT relating to the promotion of convention business or tourism in municipalities in this state; to provide for tourism or convention marketing programs in municipalities through nonprofit convention and tourist bureaus; to provide for the imposition and collection of assessments on the owners of transient facilities to support tourism or convention marketing programs; to provide for the disbursement of the assessments; to establish the functions and duties of the department of commerce; and to prescribe remedies and penalties.

History: 1980, Act 395, Imd. Eff. Jan. 7, 1981;—Am. 1984, Act 59, Imd. Eff. Apr. 12, 1984.

The People of the State of Michigan enact:

141.871 Short title.

Sec. 1. This act shall be known and may be cited as the “community convention or tourism marketing act”.

History: 1980, Act 395, Imd. Eff. Jan. 7, 1981;—Am. 1984, Act 59, Imd. Eff. Apr. 12, 1984.

141.872 Definitions.

Sec. 2. As used in this act:

(a) "Assessment" means the amount levied against an owner of a transient facility within an assessment district, computed by application of the applicable percentage against aggregate room charges with respect to that transient facility during the applicable assessment period.

(b) "Assessment district" means a municipality or combination of municipalities as described in a marketing program. A combination of municipalities is not required to be contiguous.

(c) "Assessment revenues" means the money derived from the assessment, including any interest and penalties on the assessment, imposed by this act.

(d) "Board" means the board of directors elected by the members of a bureau. A majority of the members of a board shall be owners of transient facilities.

(e) "Bureau" means a nonprofit corporation existing to promote convention business or tourism within this state or a portion of this state.

(f) "Director" means the president of the Michigan strategic fund.

(g) "Marketing program" means a program established by a bureau to develop, encourage, solicit, and promote convention business or tourism within this state or a portion of this state within which the bureau operates. The encouragement and promotion of convention business or tourism includes any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau, that intends to attract transient guests to the assessment district. For a bureau described in section 3(8), a marketing program includes a contract with a nonprofit organization formed to promote convention business or tourism that receives funding from a tax levied under 1974 PA 263, MCL 141.861 to 141.867, in a contiguous county to provide for the promotion of convention business or tourism.

(h) "Marketing program notice" means the notice described in section 3.

(i) "Municipality" means a county with a population of less than 650,000 or a city, village, or township within a county with a population of less than 650,000.

(j) "Owner" means the owner of a transient facility to be served by the bureau or, if the transient facility is operated or managed by a person other than the owner, then the operator or manager of that transient facility.

(k) "Room" means a room or other space provided for sleeping that can be rented independently, including the furnishings and other accessories in the room. Room includes, but is not limited to, a condominium or time-sharing unit that, pursuant to a management agreement, may be used to provide dwelling, lodging, or sleeping quarters for a transient guest.

(*l*) "Room charge" means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service, or like services paid in connection with the charge, and excluding reimbursement of the assessment imposed by this act.

(m) "Transient facility" means a building or combination of buildings under common ownership, operation, or management that contains 10 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. Transient facility does not include a college or school dormitory, a hospital, a nursing home, or a facility owned and operated by an organization qualified for an exemption from federal taxation under section 501(c) of the internal revenue code.

(n) "Transient guest" means a person who occupies a room in a transient facility for less than 30 consecutive days.

History: 1980, Act 395, Imd. Eff. Jan. 7, 1981;—Am. 1984, Act 59, Imd. Eff. Apr. 12, 1984;—Am. 1993, Act 224, Imd. Eff. Nov. 1, 1993;—Am. 2010, Act 82, Imd. Eff. May 21, 2010.

141.873 Marketing program and assessment district; establishment; marketing program notice; filing; contents; exclusion; excise or other tax; copies of notice; list of owners.

Sec. 3. (1) A bureau that intends to establish a marketing program and assessment district shall file a marketing program notice with the director. The marketing program notice shall state that the bureau proposes to create a marketing program under this act and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the marketing program.

(2) The marketing program notice shall describe the structure, membership, and activities of the bureau.

(3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues, specify the amount of the assessment proposed to be levied, which, except as provided in this subsection, shall not exceed 5% of the room charges in the applicable payment period, and describe the municipalities comprising the assessment district.

(4) Except as provided in section 10, an area shall not be included in the marketing program notice filed under this act and the assessment district specified in the notice if the area is part of an existing assessment district under this act for which a marketing program is in effect.

(5) If on the date of the mailing of the marketing program notice under this act an excise tax or other tax based on a room charge is not being collected, a municipality included in the marketing program notice shall not be subject to the collection of an excise tax imposed under 1974 PA 263, MCL 141.861 to 141.867, or another tax based on a room charge.

(6) If a part of a municipality is subject to an assessment under the convention and tourism marketing act, 1980 PA 383, MCL 141.881 to 141.889, that part of the municipality shall not be included in a marketing program notice or assessment district under this act.

(7) Simultaneously with the filing of the marketing program notice with the director, the bureau shall mail a copy of the notice, by registered or certified mail, to each owner of a transient facility located in the assessment district specified in the notice, in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data that is reasonably available to the bureau.

History: 1980, Act 395, Imd. Eff. Jan. 7, 1981;—Am. 1984, Act 59, Imd. Eff. Apr. 12, 1984;—Am. 1989, Act 245, Imd. Eff. Dec. 21, 1989;—Am. 1991, Act 92, Imd. Eff. July 31, 1991;—Am. 1993, Act 224, Imd. Eff. Nov. 1, 1993;—Am. 1996, Act 589, Imd. Eff. Jan. 21, 1997;—Am. 2010, Act 283, Imd. Eff. Dec. 16, 2010.

141.873a Marketing program; approval or disapproval; referendum; effective date of marketing program and assessment; filing and serving another marketing program notice.

Sec. 3a. (1) Within 30 days after a marketing program notice is filed, the director shall approve or disapprove the marketing program. The director shall not disapprove a marketing program unless the program violates this act.

(2) Within 40 days after approval of a marketing program, the director shall require a written referendum to be held by mail or in person, as determined by the director, among all owners of transient facilities in each municipality in the proposed assessment district. For the purpose of the referendum, each owner shall have 1 vote for each room in an owner's transient facility.

(3) The marketing program and assessment set forth in the notice shall become effective on the first day of the month that is more than 30 days after certification by the director that the program was approved by a majority of the votes actually cast in each municipality in the assessment district. If a majority of the votes actually cast in any municipality counted separately is not in favor of the program and assessment, the program and assessment shall not go into effect in the assessment district. However, for purposes of tabulating the votes in the referendum for a marketing program proposed on or after April 12, 1984, each municipality in the proposed assessment district requiring a majority of votes cast in favor of the proposed assessment district shall be defined in the marketing program notice required under section 3. A bureau may file and serve another marketing program notice not less than 60 days after certification of the results of a referendum.

History: Add. 1984, Act 59, Imd. Eff. Apr. 12, 1984;—Am. 1993, Act 224, Imd. Eff. Nov. 1, 1993.

141.874 Marketing program; contents.

Sec. 4. A marketing program may include all or any of the following:

(a) Provisions for establishing and paying the costs of advertising, marketing, and promotional programs to encourage convention business or tourism in the assessment district.

(b) Provisions for assisting transient facilities within the assessment district in promoting convention business or tourism.

(c) Provisions for the acquisition of personal property considered appropriate by the bureau in furtherance of the purposes of the marketing program.

(d) Provisions for the hiring of and payment for personnel employed by the bureau to implement the marketing program.

(e) Provisions for contracting with organizations, agencies, or persons for carrying out activities in furtherance of the purposes of the marketing program.

(f) Programs for establishing and paying the costs of research designed to encourage convention business or tourism in the assessment district.

(g) Provisions for incurring any other expense or cost which the board, in the exercise of its reasonable business judgment, considers reasonably related to promotion of the convention business or tourism within the assessment district.

(h) Procedures for election of the board.

History: 1980, Act 395, Imd. Eff. Jan. 7, 1981;—Am. 1984, Act 59, Imd. Eff. Apr. 12, 1984.

141.875 Assessment; computation; payment; reimbursement; agreement to accept payment of assessments; forwarding money; withholding portion of assessment for administrative costs; verification and audit of owner's assessment payments; state use tax returns; unpaid assessments; interest and delinquency charges; suit to collect; notice.

Sec. 5. (1) Upon the effective date of an assessment under section 3a, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed by multiplying the percentage set forth in the marketing program notice by the aggregate room charges imposed by the transient facility during a calender month. The assessment shall be paid by the owner of each such transient facility to the bureau or the person designated by the bureau within 30 days after the end of each calendar month, and shall be accompanied by a statement of room charges imposed by the transient facility for that calendar month. This act does not prohibit an owner from reimbursing the transient facility by adding the assessment imposed under this act to room charges payable by transient guests. However, the owner shall disclose that the transient facility has been reimbursed for the assessment imposed under this act on the bill presented to the transient guest.

(2) A bureau or person designated by the bureau may enter into an agreement with a regional tourism marketing organization established under the regional tourism marketing act to accept from owners subject to an assessment under this act the payment of assessments that are levied by a regional marketing organization under section 6 of the regional tourism marketing act. A bureau or the person designated by the bureau shall forward the money received in payment of an assessment levied by a regional marketing organization under the regional tourism marketing act to the person designated by the regional marketing organization to receive the payment of assessments under section 6 of the regional tourism marketing act. The bureau may withhold the portion of an assessment received on behalf of a regional marketing organization under this subsection and section 6 of the regional tourism marketing act as agreed upon between the bureau and the regional marketing organization to reimburse the bureau or person designated by the bureau for reasonable administrative costs to receive and forward assessments due a regional marketing organization.

(3) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau, copies of the state use tax returns of the transient facility for the preceding quarter. The copies of the state use tax returns shall be used solely by the certified public accountants to verify and audit the payment by the owner of the assessments under this act, and shall not be disclosed to the bureau except as the director determines necessary to enforce this act.

(4) Interest shall be paid by an owner to the bureau on any assessments not paid within the time required under this act. The interest shall accrue at the rate of 1.5% per month. Owners delinquent for more than 90 days in paying assessments, in addition to the 1.5% interest, shall pay a delinquency charge of 1.5% per month or fraction of a month on the amount of the delinquent assessments. The bureau may sue in its own name to collect the assessments, interest, and delinquency charges.

(5) The owner of a transient facility shall not be liable for payment of an assessment until a marketing program notice has been mailed to the transient facility of the owner pursuant to section 3.

History: 1980, Act 395, Imd. Eff. Jan. 7, 1981;—Am. 1984, Act 59, Imd. Eff. Apr. 12, 1984;—Am. 1989, Act 245, Imd. Eff. Dec. 21, 1989.

141.876 Assessment revenues not state funds; deposit and disbursement; financial statements; audit; report; copies; failure of bureau to provide copies; penalty.

Sec. 6. (1) The assessment revenues collected pursuant to this act shall not be state funds. The money shall be deposited in a bank or other depository in this state, in the name of the bureau, and shall be disbursed only for the expenses properly incurred by the bureau with respect to the marketing programs developed by the bureau under this act.

(2) The financial statements of the bureau shall be audited at least annually by a certified public accountant. A copy of the audited financial statements shall be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial statements shall include a statement of all assessment revenues received by the bureau during the fiscal year in question and include the amount of compensation for the chief executive director of the bureau and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

(3) Copies of the audited financial statements and the certified report shall simultaneously be mailed to the director, who shall make it available to the public on the internet. If the bureau fails to submit copies of the audited financial statements and the certified report to the director as provided in this subsection, the director or his or her designee shall mail a demand letter to the bureau requesting copies of the audited financial statements and the certified report with a copy of that demand letter forwarded to the attorney general. If the director or his or her designee does not receive copies of the audited financial statement and the certified report described in this subsection within 90 days of the demand letter, upon notice by the director or the attorney general, for the period of noncompliance with this subsection, the bureau shall not expend any portion of the assessment collected during the period of noncompliance with this subsection. The attorney general may assist the director in enforcing the provisions of this act.

(4) If the bureau fails to provide the copies of the audited financial statement and the certified report within 90 days of the demand letter as provided in subsection (3), the bureau is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $10,000.00 and, in addition, the attorney general may bring action to dissolve the bureau as provided by law.

History: 1980, Act 395, Imd. Eff. Jan. 7, 1981;—Am. 2010, Act 283, Imd. Eff. Dec. 16, 2010.

141.877 Repealed. 1984, Act 59, Imd. Eff. Apr. 12, 1984.

Compiler's note: The repealed section pertained to an advisory committee.

141.878 Discontinuance of assessment; referendum; proposing new marketing program notice; failure to adopt resolution discontinuing assessment; further referendum.

Sec. 8. (1) At any time 2 years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within an assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all of the transient facilities in the assessment district, the bureau shall conduct a referendum on whether the assessment shall be discontinued. The bureau shall cause a written referendum to be held by mail or in person, as the bureau chooses, among all owners of transient facilities in the petitioning assessment district within 60 days of the receipt of the requests. For the purposes of the referendum, each owner shall have 1 vote for each room in each of the owner's transient facilities within the petitioning assessment district. If a majority of the votes actually cast at the referendum for the assessment district supports discontinuance of the assessment, the assessment shall be discontinued for that area or county on the first day of the month following expiration of 60 days after the certification of the results of the referendum by the bureau.

(2) Passage of a resolution discontinuing the assessment shall not prevent a bureau from proposing a new marketing program notice during or after the 60-day period, in which case the procedures set forth in section 3 shall be followed.

(3) If a referendum is conducted under subsection (1) and if a resolution to discontinue the assessment is not adopted, a further referendum on the discontinuation of that assessment for the assessment district for which the referendum was held shall not be held for a period of 2 years.

History: 1980, Act 395, Imd. Eff. Jan. 7, 1981;—Am. 1984, Act 59, Imd. Eff. Apr. 12, 1984.

141.879 Building or combination of buildings with less than 10 rooms; agreement to be subject to assessment; participation in marketing program; duration of assessment.

Sec. 9. (1) The owner of a building or combination of buildings, which is within an assessment district, has less than 10 rooms, and otherwise meets the definition of transient facility, may agree in writing to be subject to the assessment. If an owner agrees to be subject to the assessment, the building or combination of buildings shall be considered a transient facility for the purposes of this act. The owner and transient facility shall participate in the marketing program for that assessment district.

(2) A building or combination of buildings which becomes a transient facility under this section shall remain subject to the assessment unless the assessment is discontinued as provided in section 8.

History: Add. 1984, Act 59, Imd. Eff. Apr. 12, 1984.

141.880 Existing assessment district and marketing program.

Sec. 10. An assessment district and marketing program under this act which is in effect before the effective date of this section shall remain in effect for 365 days after the effective date of this section or until a new marketing program and assessment district, which includes any portion of an existing assessment district and which is established under this act, becomes effective, whichever is sooner.

History: Add. 1984, Act 59, Imd. Eff. Apr. 12, 1984.

CONVENTION AND TOURISM MARKETING ACT
Act 383 of 1980

AN ACT relating to the promotion of convention business and tourism in this state and the major metropolitan areas of this state; to provide for tourism and convention marketing programs in major metropolitan areas through nonprofit convention and tourist bureaus; to provide for imposition and collection of assessments on the owners of transient facilities to support tourism and convention marketing programs; to provide for the disbursement of the assessments; to establish the functions and duties of the department of commerce; and to prescribe remedies and penalties.

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

The People of the State of Michigan enact:

141.881 Short title.

Sec. 1. This act shall be known and may be cited as the "convention and tourism marketing act".

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

141.882 Definitions.

Sec. 2. As used in this act:

(a) "Assessment district" means a county having a population of more than 1,500,000 and, if so designated by the bureau in the marketing program notice, any county or counties contiguous with it.

(b) "Assessment revenues" means the money derived from the assessment, including any interest and penalties on the assessment, imposed by this act.

(c) "Board" means the board of directors of a bureau.

(d) "Bureau" means a nonprofit corporation incorporated under the laws of this state existing solely to promote convention business and tourism within this state or a portion of this state, and which complies with all of the following:

(*i*) Has not less than 400 dues paying members, of which not less than 50 are owners of transient facilities.

(*ii*) Has been actively engaged in promoting convention business and tourism for not less than 10 years.

(*iii*) Has a board of directors elected by its members.

(*iv*) Has a full-time chief operating officer and not less than 10 full-time employees.

(*v*) Is a member of 1 or more nationally recognized associations of travel and convention bureaus.

(e) "Director" means the director of the department of commerce.

(f) "Marketing program" means a program established by a bureau to develop, encourage, solicit, and promote convention business and tourism within this state or a portion of this state within which the bureau operates. The encouragement and promotion of convention business and tourism shall include any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau which intends to attract transient guests to the assessment district.

(g) "Marketing program notice" means the notice described in section 3.

(h) "Owner" means the owner of a transient facility located within the assessment district or, if the transient facility is operated or managed by a person other than the owner, then the operator or manager of that transient facility.

(i) "Room" means a room or other space provided for sleeping, including the furnishings and other accessories in the room.

(j) "Assessment" means the amount levied against an owner of a transient facility within an assessment district computed by application of the applicable percentage against aggregate room charges with respect to that transient facility during the applicable assessment period.

(k) "Room charge" means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service or like services paid in connection with the charge, and reimbursement of the assessment imposed by this act.

(*l*) "Transient facility" means a building which contains 35 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. A transient facility shall not include a hospital or nursing home.

(m) "Transient guest" means a person who occupies a room in a transient facility for less than 30 consecutive days.

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

141.883 Marketing program notice; contents; assessment; mailing copy of notice to owner of

transient facility; referendum.

Sec. 3. (1) A bureau which has its principal place of business in a county having a population of more than 1,500,000 may file a marketing program notice with the director. The notice shall state that the bureau proposes to create a marketing program under this act and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the program.

(2) The marketing program notice shall describe the structure, history, membership, and activities of the bureau in sufficient detail to enable the director to determine if the bureau satisfies all of the requirements of section 2(d).

(3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues, specify the amount of the assessment proposed to be levied which shall not exceed 2% of the room charges in the applicable payment period, and the county or counties comprising the assessment district. A county shall not be included in the marketing program notice and the assessment district specified in the notice if on the date the notice is mailed the county is collecting a tax pursuant to Act No. 263 of the Public Acts of 1974, being sections 141.861 to 141.867 of the Michigan Compiled Laws.

(4) Simultaneously with the filing of the marketing program notice with the director, the bureau shall cause a copy of the notice to be mailed by registered or certified mail to each owner of a transient facility located in the assessment district specified in the notice in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data which is reasonably available to the bureau.

(5) The form of the marketing program notice, in addition to the information required by subsections (1), (2), and (3), shall set forth the right of referendum prescribed in subsection (6).

(6) The assessment set forth in the notice shall become effective on the first day of the month following the expiration of 40 days after the date the notice is mailed, unless the director, within the 40-day period, receives written requests for a referendum by owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all the transient facilities.

(7) If the director receives referendum requests in the time and number set forth in subsection (6), the director shall cause a written referendum to be held by mail or in person, as the director chooses, among all owners of transient facilities in the assessment district within 20 days after the expiration of the 40-day period. For the purposes of the referendum, each owner of a transient facility shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of votes actually cast at the referendum approve the assessment, as proposed by the bureau in its marketing program notice, the assessment shall become effective as to all owners of transient facilities located in the assessment district on the first day of the month following expiration of 30 days after certification of the results of the referendum by the director. If a majority of votes actually cast at the referendum are opposed to the assessment, the assessment shall not become effective. If the assessment is defeated by the referendum, the bureau may file and serve a new notice of intention if at least 60 days have elapsed from the date of certification of the results of the earlier referendum. Not more than 2 referenda or notices may be held pursuant to this subsection or filed pursuant to this section in any 1 calendar year. Only 1 assessment may be in existence in an assessment district, or any part of an assessment district, at any 1 time.

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

141.884 Marketing program; contents.

Sec. 4. A marketing program may include all or any of the following:

(a) Provisions for establishing and paying the costs of advertising, marketing, and promotional programs to encourage convention business and tourism in the assessment district.

(b) Provisions for assisting transient facilities within the assessment district in promoting convention business and tourism.

(c) Provisions for the acquisition of personal property considered appropriate by the bureau in furtherance of the purposes of the marketing program.

(d) Provisions for the hiring of and payment for personnel employed by the bureau to implement the marketing program.

(e) Provisions for contracting with organizations, agencies, or persons for carrying out activities in furtherance of the purposes of the marketing program.

(f) Programs for establishing and paying the costs of research designed to encourage convention business and tourism in the assessment district.

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

141.885 Assessment; payment; statement of room charges; reimbursement from room charges; verification and audit of owner's assessment payments; state use tax returns; unpaid assessments; interest and delinquency charges; suit to collect; notice.

Sec. 5. (1) Upon the effective date of an assessment, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed using the percentage set forth in the marketing program notice. The assessment shall be paid by the owner of each such transient facility to the bureau within 30 days after the end of each calendar month, and shall be accompanied by a statement of room charges imposed with respect to the transient facility for that month. This act shall not prohibit a transient facility from reimbursing itself by adding the assessment imposed pursuant to this act to room charges payable by transient guests, provided the transient facility discloses that it has done so on any bill presented to a transient guest.

(2) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau, copies of its state use tax returns for the preceding quarter. These copies of the state use tax returns shall be used solely by the certified public accountants to verify and audit the owner's payment of the assessments, and shall not be disclosed to the bureau except as necessary to enforce this act.

(3) Interest shall be paid by an owner to the bureau on any assessments not paid within the time called for under this act. The interest shall accrue at the rate of 1.5% per month. Owners delinquent for more than 90 days in paying assessments, in addition to the 1.5% interest, shall pay a delinquency charge of 10% per month or fraction of a month on the amount of the delinquent assessments. The bureau may sue in its own name to collect the assessments, interest, and delinquency charges.

(4) The owner of a transient facility shall not be liable for payment of an assessment until a notice has been mailed to the transient facility of the owner pursuant to section 3(4).

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

141.886 Assessment revenues not state funds; deposit and disbursement; financial statements; audit; report; copies.

Sec. 6. (1) The assessment revenues collected pursuant to this act shall not be state funds. The money shall be deposited in a bank or other depository in this state, in the name of the bureau, and disbursed only for the expenses properly incurred by the bureau with respect to the marketing programs developed by the bureau under this act.

(2) The financial statements of the bureau shall be audited at least annually by a certified public accountant. A copy of the audited financial statements shall be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial statements shall include a statement of all assessment revenues received by the bureau during the fiscal year in question and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

(3) Copies of the audited financial statements and the certified report shall simultaneously be mailed to the director.

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

141.887 Advisory committee; election and terms of members; formal meetings; review of proposed marketing program; approval or rejection; recommendations; board of directors.

Sec. 7. (1) Upon the effective date of the establishment of an assessment under this act, the bureau shall cause an advisory committee to be elected consisting of representatives of the owners of transient facilities located within the assessment district, together with the director or the director's designated representative.

(2) The advisory committee shall consist of not less than 9 nor more than 15 persons, at least 1 of whom shall not be affiliated with a bureau member. The advisory committee shall include at least 3 persons from each county within the assessment district, at least 1 of whom, from each county, is affiliated with a transient facility of 75 rooms or less. Procedures for the election and terms of the office of the members of the advisory committee shall be established by the bureau.

(3) The bureau at regular intervals, but not less than quarterly, shall cause a formal meeting of the advisory committee to be held at which the bureau shall present its current and proposed marketing programs. At these formal meetings the advisory committee shall review and either approve or reject any proposed marketing programs. An approved marketing program shall be instituted by the bureau. A rejected marketing program shall not be instituted by the bureau.

(4) The advisory committee may make recommendations to the bureau and the board from time to time

with respect to current or proposed marketing programs.

(5) The bureau shall cause to be elected to its board of directors, from the members of the advisory committee, 1 person from each of the counties within the assessment district.

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

141.888 Discontinuance of assessment; referendum; proposing new marketing program notice; failure to adopt resolution discontinuing assessment; further referendum.

Sec. 8. (1) At any time 2 years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all the transient facilities, the bureau shall conduct a referendum on whether the assessment shall be discontinued. The bureau shall cause a written referendum to be held by mail or in person, as the bureau chooses, among all owners of transient facilities in the assessment district within 60 days of the receipt of the requests. For the purposes of the referendum, each owner shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of the total votes eligible to be cast at the referendum supports discontinuance of the assessment, the assessment shall be discontinued on the first day of the month following expiration of 90 days after the certification of the results of the referendum by the bureau.

(2) Passage of a resolution discontinuing the assessment shall not prevent a bureau from proposing a new marketing program notice during or after the 90-day period, in which case the procedures set forth in section 3 shall be followed.

(3) If a referendum is conducted under subsection (1), and if a resolution to discontinue the assessment is not adopted, a further referendum on the discontinuation of that assessment shall not be held for a period of 2 years.

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

141.889 Effective date.

Sec. 9. This act shall take effect January 1, 1981.

History: 1980, Act 383, Imd. Eff. Jan. 2, 1981.

REGIONAL TOURISM MARKETING ACT
Act 244 of 1989

AN ACT to promote tourism in certain regions of this state; to provide for the creation of tourism marketing programs; to provide for the imposition and collection of assessments on the owners of transient facilities to support tourism marketing programs; to provide for the disbursement of the assessments; to prescribe the powers and duties of certain state agencies and officers; and to prescribe remedies and penalties.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

The People of the State of Michigan enact:

141.891 Short title.

Sec. 1. This act shall be known and may be cited as the "regional tourism marketing act".

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.892 Definitions.

Sec. 2. As used in this act:

(a) "Assessment" means the amount levied against an owner under this act.

(b) "Assessment revenues" means the money collected by a regional marketing organization from the assessment, including any interest and penalties on the assessment, imposed under this act.

(c) "Board" means the board of directors elected by the members of a regional marketing organization.

(d) "Director" means the director of commerce.

(e) "Owner" means the owner of a transient facility that is located within the regional assessment district or, if the transient facility is operated or managed by a person other than the owner, then the operator or manager of that transient facility. Owner includes a person electing to come under the provisions of this act pursuant to section 9.

(f) "Regional assessment district" means a region of this state composed of a number of counties in which a regional marketing organization operates. Regional assessment district does not include a portion of the region that is a special charter, fourth class city.

(g) "Regional marketing organization" means a nonprofit corporation that promotes tourism within a region of this state. Regional marketing organization includes only an organization that has been operating for 10 or more years and that operates in a region composed of 15 counties.

(h) "Room" means a room or other space provided for sleeping that can be rented independently, including the furnishings and other accessories in the room. Room includes, but is not limited to, a condominium or time-sharing unit that, pursuant to a management agreement, may be used to provide dwelling, lodging, or sleeping quarters for a transient guest.

(i) "Room charge" means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service, or like services paid in connection with the room charge, and reimbursement of the assessment as allowed in section 6.

(j) "Transient facility" means a building or combination of buildings under common ownership, operation, or management that contains 10 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. Transient facility includes a building or combination of buildings, the owner of which has elected to come under the provisions of this act pursuant to section 9. Transient facility does not include a college or school dormitory; a hospital; a nursing home; a hospice; a building or combination of buildings that is otherwise a transient facility, but that is located within 1 mile of a ski lift as defined in section 2 of the ski area safety act of 1962, Act No. 199 of the Public Acts of 1962, being section 408.322 of the Michigan Compiled Laws; or a facility owned and operated by an organization qualified for an exemption from federal taxation under section 501(c) of the internal revenue code.

(k) "Transient guest" means a person who occupies a room in a transient facility for less than 30 consecutive days.

(*l*) "Tourism marketing program" means a program established by a regional marketing organization to develop, encourage, solicit, and promote tourism within a region of this state. The encouragement and promotion of tourism includes a service, function, or activity, whether or not performed, sponsored, or advertised by a regional marketing organization, that intends to attract transient guests to the regional assessment district.

(m) "Tourism marketing program notice" means the notice described in section 3.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.893 Tourism marketing program notice; filing; contents; copies; list of transient facilities.

Sec. 3. (1) In order to establish a tourism marketing program within a regional assessment district, a regional marketing organization shall file a tourism marketing program notice with the director.

(2) The tourism marketing program notice shall contain all of the following:

(a) A statement that the regional marketing association proposes to create a tourism marketing program under this act.

(b) A statement that the regional marketing association proposes to levy and collect an assessment from owners to pay the costs of the tourism marketing program.

(c) A description of the structure, membership, and activities of the regional marketing organization, including a statement that the regional marketing organization is governed by a board and that a majority of the members of the board are owners. The description shall include the business name and address of the person designated by the regional marketing organization to receive the payment of assessments under section 6 and the independent certified public accountants who audit the financial statements of the regional marketing organization.

(d) A description of the tourism marketing program to be implemented by the regional marketing organization with the assessment revenues.

(e) A statement specifying the amount of the assessment proposed to be levied. The assessment shall not exceed 1% of the room charges in the applicable payment period.

(f) A list of the counties comprising the regional assessment district.

(g) Other information considered necessary by the director.

(3) On the same day the tourism marketing program notice is filed under subsection (1), the regional marketing organization shall mail a copy of the tourism marketing program notice to each owner of a transient facility located in the regional assessment district. The tourism marketing program notice shall be mailed by registered or certified mail to the owner at the last known address of the transient facility. The regional marketing organization shall use any information that is reasonably available to the regional marketing organization to establish the list of all transient facilities within the regional assessment district.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.894 Tourism marketing program; approval or disapproval; written referendum; effective date; failure of referendum.

Sec. 4. (1) The director shall approve or disapprove a tourism marketing program within 30 days after a tourism marketing program notice is filed. The director shall not disapprove a tourism marketing program unless the tourism marketing program violates this act.

(2) Within 40 days after approval of a tourism marketing program under subsection (1), the director shall conduct among all owners a written referendum by mail on whether the tourism marketing program should be approved. For the purpose of the referendum and except as provided in section 9, each owner has 1 vote for each room in the owner's transient facility.

(3) If the tourism marketing program is approved by a majority of the votes actually cast in the regional assessment district, the tourism marketing program and assessment set forth in the tourism marketing program notice become effective on the first day of the month that is more than 30 days after certification by the director of the results of the referendum. A regional marketing organization may file and serve another tourism marketing program notice under section 3 no sooner than 1 year after certification by the director of the results of a referendum if the referendum failed.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.895 Tourism marketing program; scope.

Sec. 5. A tourism marketing program may include 1 or more of the following:

(a) A provision for establishing and paying the costs of advertising, marketing, and promotional programs to encourage tourism in the regional assessment district.

(b) A provision for assisting a transient facility within the regional assessment district to promote tourism.

(c) A provision for the acquisition of personal property considered appropriate by the regional marketing organization to achieve the purpose of the tourism marketing program.

(d) A provision for the hiring of and payment for personnel employed by the regional marketing organization to implement the tourism marketing program.

(e) A provision for contracting with organizations, agencies, or persons to carry out activities to achieve the purpose of the tourism marketing program.

(f) A program to establish and pay for the costs of research designed to encourage tourism in the regional assessment district.

(g) A provision to incur any other expense or cost that the board, in the exercise of its reasonable business judgment, considers reasonably related to the promotion of tourism within the regional assessment district.

(h) A procedure for election of the board that requires that a majority of the members of the board are owners.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.896 Assessments generally.

Sec. 6. (1) Upon the effective date of an assessment under section 4, each owner is liable for payment of the assessment computed by multiplying the percentage set forth in the tourism marketing program notice by the aggregate room charges imposed by the transient facility during a calendar month. Except as provided in subsection (2), the owner shall pay the assessment, within 30 days after the end of each calendar month, to the person designated by the regional marketing organization, which person is independent of the accountants who audit the financial statements of the regional marketing organization. A payment shall be accompanied by a statement of room charges imposed by the transient facility for that calendar month. This act does not prohibit an owner from reimbursing the transient facility by adding the assessment imposed under this act to room charges payable by a transient guest. However, the owner shall disclose that the transient facility has been reimbursed for the assessment imposed under this act on the bill presented to the transient guest.

(2) A regional marketing organization may enter into an agreement with a bureau established under the community convention or tourism marketing act, Act No. 395 of the Public Acts of 1980, being sections 141.871 to 141.880 of the Michigan Compiled Laws, to accept assessments levied under this act. If an owner is subject to assessments under this act and Act No. 395 of the Public Acts of 1980, and an agreement is entered into under this subsection, the owner may satisfy the payment requirements under subsection (1) by paying the assessment under this act to the bureau or the person designated by the bureau under Act No. 395 of the Public Acts of 1980 at the same time the assessment under Act No. 395 of the Public Acts of 1980 is paid by the owner. The regional marketing organization shall reimburse a bureau or the person designated by the bureau under Act No. 395 of the Public Acts of 1980 for reasonable administrative costs incurred to receive and forward assessments due a regional marketing organization under this act. The regional marketing organization may agree with the bureau to allow the bureau or the person designated by the bureau under Act No. 395 of the Public Acts of 1980 to withhold a portion of an assessment received on behalf of the regional marketing organization as reimbursement for the reasonable administrative costs incurred.

(3) Within 30 days after the close of each calendar quarter, each owner shall forward to the independent certified public accountants who audit the financial statements of the regional marketing organization copies of the state use tax returns of the transient facility for the preceding quarter. The copies of the state use tax returns shall be used solely by the certified public accountants to verify and audit the payment of the assessment by the owner under this act, and shall not be disclosed to the regional marketing organization except as the director determines necessary to enforce this act.

(4) An owner shall pay interest to the regional marketing organization on any assessment not paid within the time required under this act. The interest shall accrue at the rate of 1.5% per month. An owner delinquent for more than 90 days in paying an assessment, in addition to interest, shall pay a penalty of 1.5% per month or fraction of a month on the amount of the delinquent assessment. The regional marketing organization may sue in its own name to collect the assessment, interest, and penalty.

(5) An owner is not liable for payment of an assessment until a tourism marketing program notice and, if the owner is eligible to vote, the referendum ballot has been mailed to the owner at the last known address of the transient facility pursuant to sections 3 and 4.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.897 Disposition of assessment revenues; financial statements; certified report; copies.

Sec. 7. (1) The assessment revenues collected under this act are not state funds. The regional marketing organization shall deposit assessment revenues collected under this act in a bank or other depository in this state in the name of the regional marketing organization. The assessment revenues shall be disbursed only for the expenses properly incurred by the regional marketing organization with respect to the tourism marketing program developed by the regional marketing organization under this act.

(2) The financial statements of the regional marketing organization shall be audited at least annually by an independent certified public accountant. The regional marketing organization shall mail a copy of the audited financial statements to each owner 150 days or less after the close of the regional marketing organization's fiscal year. The financial statements shall include a statement of all assessment revenues received by the

regional marketing organization during the fiscal year and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the regional marketing organization, describing the tourism marketing programs implemented or, to the extent then known, to be implemented by the regional marketing organization.

(3) On the same day copies of the audited financial statements and certified report are mailed under subsection (2), the regional marketing organization shall file a copy of the audited financial statements and certified report with the director.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.898 Discontinuance of assessment; referendum.

Sec. 8. (1) A regional marketing organization shall conduct a referendum on whether an assessment levied under a tourism marketing program shall be discontinued if both of the following requirements are met:

(a) The tourism marketing program levying the assessment has been in effect for 2 years or more.

(b) Forty percent or more of the total number of owners in the regional assessment district, or owners representing 40% or more of the total number of rooms in transient facilities within the regional assessment district, file with the regional marketing organization a written request for a referendum under this section.

(2) The regional marketing organization shall conduct a written referendum, by mail or in person, among all owners within 60 days after receipt of the written request for a referendum under subsection (1). For the purpose of the referendum, each owner has 1 vote for each room in the owner's transient facility.

(3) If a majority of the votes actually cast at the referendum approves the discontinuance of the assessment, the assessment under a tourism marketing program shall be discontinued on the first day of the month that is more than 60 days after certification by the regional marketing organization of the results of the referendum.

(4) The discontinuance of an assessment under this section does not prevent a regional marketing organization from filing and serving a new tourism marketing program notice under section 3 during or after the 60-day period under subsection (3).

(5) If a referendum held under this section does not result in the discontinuance of the assessment under a tourism marketing program, a further referendum on the discontinuance of that assessment shall not be held until the expiration of 1 year after the date of the referendum under this section.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.899 Building or combination of buildings; agreement to be subject to tourism marketing program; assessment.

Sec. 9. (1) An owner of a building or combination of buildings that is within a regional assessment district, that has less than 10 rooms or is located within 1 mile of a ski lift, and that otherwise meets the definition of a transient facility under this act may agree in writing to be subject to a tourism marketing program under this act. If an owner of a building or combination of buildings agrees to be subject to the tourism marketing program, the building or combination of buildings is considered a transient facility for the purposes of this act. The owner of the building or combination of buildings is considered an owner for the purposes of this act except that the owner is not eligible to vote in the referendum on the tourism marketing program. The owner shall otherwise participate in the tourism marketing program for that regional assessment district.

(2) A building or combination of buildings that is considered a transient facility under subsection (1) shall remain subject to an assessment imposed under this act until the assessment is discontinued as provided in section 8.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

141.900 Effect of assessment or tax based on room charge.

Sec. 10. A regional marketing organization is not prohibited from levying an assessment under this act because an assessment or tax based on a room charge under another law of this state is or may be levied on a transient facility.

History: 1989, Act 244, Imd. Eff. Dec. 21, 1989.

GLENN STEIL STATE REVENUE SHARING ACT OF 1971
Act 140 of 1971

AN ACT to provide for the distribution of certain state revenues to cities, villages, townships, and counties; to impose certain duties and confer certain powers on this state, political subdivisions of this state, and the officers of both; to create reserve funds; and to establish a revenue sharing task force and provide for its powers and duties.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1983, Act 236, Imd. Eff. Dec. 1, 1983;—Am. 1996, Act 342, Imd. Eff. June 27, 1996.

The People of the State of Michigan enact:

141.901 Short title.

Sec. 1. This act shall be known and may be cited as the "Glenn Steil state revenue sharing act of 1971".

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1998, Act 532, Imd. Eff. Jan. 12, 1999.

Constitutionality: Revenue-sharing payments to local units of government are expenditures authorized by appropriations, and are subject to reduction by the Governor where necessary because of a decline in estimated revenue, notwithstanding the balance in actual payments which the decline will occasion, because the constitution does not require that the reductions be proportionate to the decline. *Michigan Association of Counties v Department of Management and Budget*, 418 Mich 667; 345 NW2d 584 (1984).

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the State Budget Director under the State Revenue Sharing Act of 1971 and the Health and Safety Fund Act from the State Budget Director, within the Department of Management and Budget, to the State Treasurer, within the Department of Treasury, see E.R.O. No. 1993-6, compiled at MCL 141.991 of the Michigan Compiled Laws.

141.902 "Intangibles tax,""sales tax," and "state income tax" defined.

Sec. 2. (1) "Intangibles tax" means the intangibles tax imposed by Act No. 301 of the Public Acts of 1939, as amended, being sections 205.131 to 205.147 of the Compiled Laws of 1948, or any similar act.

(2) "Sales tax" means the sales tax imposed by Act No. 167 of the Public Acts of 1933, as amended, being sections 205.51 to 205.78 of the Compiled Laws of 1948, or any similar act.

(3) "State income tax" means the income tax imposed by Act No. 281 of the Public Acts of 1967, as amended, being sections 206.1 to 206.499 of the Compiled Laws of 1948, or any similar act.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971.

141.903 "Population" and "rate" defined.

Sec. 3. (1) "Population" for the purpose of distributing revenues among cities, villages, townships, and counties means population according to the last and each succeeding statewide federal census, or a special statewide census as provided by law, whichever is later. Corrections to the statewide federal census that are published by the bureau of the census, United States department of commerce, and that occur during the period July 1, and ending June 30, shall become effective for the purpose of revenue distributions on the next July 1. Fifty percent of the total number of persons who are wards, patients, or convicts committed to or domiciled in a city, village, or township institution located outside the boundaries of the city, village, or township or committed to or domiciled in a county, state, or federal tax-supported institution, if the persons were included in the federal census, or any special census as provided by law, shall be excluded from the computation. The population of a township is its population outside the corporate limits of villages in the township. The population data used in determining distributions under this act in a year in which a federal decennial statewide census, federal mid-decade statewide census, or special statewide census provided by law is conducted shall become effective for distributions made on and after October 1 of the year for which the respective census is conducted. Once the official population data from a federal decennial statewide census, federal mid-decade statewide census, or special statewide census provided by law is certified and published, the department of management and budget shall calculate any overpayment or underpayment made to a local unit of government since the effective date of the respective census and make adjustments in future distributions to the local unit of government to correct these overpayments or underpayments of revenue distributed pursuant to this act.

(2) "Rate" means a figure determined each May 15 by the department of management and budget pursuant to this act from applicable tax data for the preceding calendar year as reported to it by the department of treasury and applicable to payments made during the succeeding period of July 1 to June 30.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1972, Act 212, Imd. Eff. July 7, 1972;—Am. 1980, Act 275, Imd. Eff. Oct. 8, 1980.

141.904 "Local property taxes,""local income and excise taxes,""local taxes,""overlapping taxes," and "special assessments" defined.

Sec. 4. (1) "Local property taxes" means ad valorem property taxes levied by a city, village, or township.

(2) "Local income and excise taxes" means collections of taxes pursuant to the city income tax act, Act No. 284 of the Public Acts of 1964, as amended, being sections 141.501 to 141.787 of the Michigan Compiled Laws, or pursuant to the city utility users tax act, Act No. 198 of the Public Acts of 1970, as amended, being sections 141.801 to 141.837 of the Michigan Compiled Laws, or pursuant to any acts authorizing local income or excise taxes by a city, village, or township, which collections are modified as follows:

(a) For a city levying a local income tax, an amount shall be excluded prior to determining the rates pursuant to this act, which amount shall be determined by a proportion to be the ratio whose numerator is 1/2 of 1% and whose denominator is the sum of the resident rate multiplied by 2 and the nonresident rate multiplied by 1.

(b) If the local income tax actually collected by a city from nonresident individuals is less than the amount determined pursuant to subdivision (a), the amount excluded prior to determining the rates shall be the amount of actual collections from nonresidents as certified by the city to the department of treasury.

(3) "Local taxes" means local property taxes, local income and excise taxes, and, for distributions after June 30, 1987, special assessments, which special assessments meet all of the following criteria:

(a) The assessment district is the entire city, village, or township.

(b) The assessment is levied on an ad valorem basis against all real property in the city, village, or township.

(4) "Overlapping taxes" means ad valorem property taxes, income taxes, and excise taxes levied in a city, village, or township by any of the following:

(a) A county.

(b) A school district, intermediate school district, or community college district.

(c) An authority or other governmental unit or agency except the state.

(5) "Special assessments" means any of the following, except as otherwise provided in subsection (6):

(a) Special assessments imposed by a city, village, or township against property in the city, village, or township for streets, sidewalks, storm or sanitary sewers, water supply, drains, street lights, fire protection, police protection, or any other public improvement, facility, or service authorized by charter, ordinance, or statute to be imposed on the basis of benefit to the property.

(b) Special assessments imposed by a county against property in the city, village, or township to pay a portion of the cost of constructing or maintaining a county public improvement determined on the basis of the benefit of the public improvement to the property.

(c) For distributions after June 30, 1976, capital improvement charges imposed in lieu of special assessments pursuant to charter, ordinance, or statute by a city, village, or township to pay for a portion of the cost of constructing a public improvement determined on the basis of the benefit of the public improvement to the property.

(6) "Special assessment" does not include a special assessment that is included in local taxes under subsection (3).

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1972, Act 212, Imd. Eff. July 7, 1972;—Am. 1973, Act 69, Imd. Eff. July 23, 1973;—Am. 1975, Act 245, Imd. Eff. Sept. 4, 1975;—Am. 1987, Act 116, Imd. Eff. July 14, 1987.

141.905 Definitions.

Sec. 5. (1) "Local tax effort rate" for a city, village, or township means its local taxes divided by its taxable value.

(2) "Statewide tax effort rate" means the total local taxes in the state divided by the total taxable value.

(3) "Relative tax effort rate" means the local tax effort rate for a city, village, or township divided by the statewide tax effort rate.

(4) "Tax effort formula" means the method for computing, from the total amount of revenue available for distribution under the formula at any single time, the amount to be paid to a city, village, or township determined as follows:

(a) Multiply the relative tax effort for the city, village, or township by the population of the city, village, or township.

(b) Divide the total amount of revenue available for distribution under the formula at any single time by the sum of the products determined under subdivision (a).

(c) Multiply the quotient determined under subdivision (b) by the individual products determined under subdivision (a) for each city, village, or township.

(5) "Taxable value" means that value determined under section 27a of the general property tax act, Act No.

206 of the Public Acts of 1893, being section 211.27a of the Michigan Compiled Laws.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1972, Act 212, Imd. Eff. July 7, 1972;—Am. 1996, Act 342, Imd. Eff. June 27, 1996.

141.906 Additional definitions.

Sec. 6. (1) "Local tax burden rate" for a city, village, or township means local taxes of the city, village, or township plus special assessments plus 25% of the overlapping taxes levied in the city, village, or township, which sum is divided by the taxable value of the city, village, or township.

(2) "Statewide tax burden rate" means the total local taxes in the state plus the total special assessments levied by cities, villages, or townships plus 25% of the total overlapping taxes in the state, which sum is divided by the total taxable value.

(3) "Relative tax burden rate" means the local tax burden rate for a city, village, or township divided by the statewide tax burden rate.

(4) "Tax burden formula" means the method for computing, from the total amount of revenue available for distribution under the formula at any single time, the amount to be paid to a city, village, or township determined as follows:

(a) Multiply the relative tax burden rate of the city, village, or township by its population.

(b) Divide the total amount of revenue available for distribution under the formula at any single time by the sum of the products determined under subdivision (a).

(c) Multiply the quotient from subdivision (b) by the individual products determined under subdivision (a) for each city, village, or township.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1972, Act 212, Imd. Eff. July 7, 1972;—Am. 1973, Act 69, Imd. Eff. July 23, 1973;—Am. 1975, Act 245, Imd. Eff. Sept. 4, 1975;—Am. 1996, Act 342, Imd. Eff. June 27, 1996.

141.907 Special census of population; cost; provisions; certification and utilization of results; enumeration date; share of revenues based on increased population.

Sec. 7. (1) A city, village, or township may contract with the secretary of state or the United States bureau of the census to have conducted a special census of its population. The entire cost of the census shall be borne by the city, village, or township. The special census shall provide for separate identification by institution of wards, patients, or convicts in tax supported institutions in accordance with definitions used by the United States bureau of the census in the enumeration of the preceding statewide federal census. The results of the special census shall be certified to the department of management and budget by the secretary of state.

(2) The results of the special census as certified in subsection (1) shall be utilized for the purpose of making distributions under section 14a starting on the July 1 next following the date of certification of the results. Only 1 special census may be utilized between 2 statewide federal censuses. The enumeration date of a special census utilized under this act shall not be less than 3 years from the enumeration date of a regular statewide federal decennial census.

(3) A city, village, or township that on the enumeration date of a special census is determined to have an increase of population of 10% or more over its population as determined by the last preceding statewide federal census shall receive its share of revenues distributed under section 14a based on its population increase which exceeds the estimated state growth rate. Estimated state growth rate means the estimate determined by the department of management and budget as of the enumeration date of a special census.

History: Add. 1975, Act 245, Imd. Eff. Sept. 4, 1975;—Am. 1998, Act 532, Imd. Eff. Jan. 12, 1999.

141.911 Payments to counties from state income tax collections; time and basis; payments to counties based on sales tax collections.

Sec. 11. (1) For state fiscal years before the 1996-1997 state fiscal year, the department of management and budget shall cause to be paid during each August, November, February, and May, to counties on a per capita basis the collections from the state income tax as certified by the department of treasury for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to and retention by counties.

(2) For state fiscal years beginning after September 30, 1992 and ending before October 1, 1996, the collections from the state income tax otherwise available for distribution to counties in November for the quarter period ending the prior September 30 shall be increased by $35,900,000.00 and the collections from the state income tax otherwise available for distribution to counties in August for the quarter period ending the prior June 30 shall be decreased by $35,900,000.00.

(3) For the 1996-1997 and 1997-1998 state fiscal years, the department of treasury shall cause to be paid to counties on a per capita basis an amount equal to 24.5% of the difference between 21.3% of the sales tax

collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a. Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, the department of treasury shall cause to be paid to counties all of the following:

(a) Except as provided in subdivision (c) and subsection (6), an amount equal to the amount the county was eligible to receive under section 12a in the 1997-1998 state fiscal year.

(b) Except as provided in subdivision (c) and subsection (6), an amount equal to 25.06% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made minus the amount determined under subdivision (a) which shall be distributed on a per capita basis. If the amount appropriated under this section to counties is less than 25.06% of 21.3% of the sales tax rate of 4%, any reduction made necessary by this appropriation in distributions to counties shall first be applied to the distribution under this subdivision.

(c) For the 2002-2003 state fiscal year only, each county shall receive the lesser of 96.5%, or the percentage determined under this subdivision, of the amount that the county would have received if the total available for distribution under subdivisions (a) and (b) were $211,549,002.00. The total amount available for distribution to all counties under this subdivision shall not exceed $204,144,787.00. For the 2002-2003 state fiscal year, the percentage under this subdivision shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $791,070,000.00 by $1,515,644,218.00. For the 2003-2004 state fiscal year only, each county shall receive the lesser of 92%, or the percentage determined under this subdivision, of the amount distributed to the county under this subsection for the 2002-2003 state fiscal year. For the 2003-2004 state fiscal year, the percentage under this subdivision shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $724,800,000.00 by $1,407,850,000.00 and then subtracting 0.08.

(4) After September 30, 2007 and subject to the limitations of subsections (3) and (6), 25.06% of 21.3% of the sales tax collections at a rate of 4% shall be distributed to counties as provided by law.

(5) The payments under subsection (3) shall be made from revenues collected during the state fiscal year in which the payments are made and shall be made during each October, December, February, April, June, and August. Payments shall be based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a. For state fiscal years after the 1995-1996 state fiscal year, the collections from the sales tax otherwise available for distribution to counties under subsection (3) in December shall be increased by $17,000,000.00 and the collections from the sales tax otherwise available for distribution to counties under subsection (3) in April shall be decreased by $17,000,000.00.

(6) For state fiscal years beginning after September 30, 2004, the total amount distributed to each county under this section shall equal the amount by which the balance in its revenue sharing reserve fund under section 44a of the general property tax act, 1893 PA 206, MCL 211.44a, for the county's most recent fiscal year that ends prior to the January 1 of the state's fiscal year is less than the amount calculated under section 44a(13) of the general property tax act, 1893 PA 206, MCL 211.44a, for the county fiscal year that begins in the state's fiscal year. Payments under this subsection shall be adjusted as necessary to reflect partial county fiscal years and prorated based on the total amount appropriated for distribution to all counties. Upon the exhaustion of each county's revenue sharing reserve fund, state revenue sharing within that county will be fully and permanently restored in an amount equal to the total payments made to that county under this act in the state fiscal year ending September 30, 2004, adjusted annually through the date of restoration by the inflation rate, without regard to an executive order issued after May 17, 2004, and prorated based on the amount of the reserve fund used by the county in the fiscal year during which payments are required to resume under this subsection. As used in this subsection, "inflation rate" means that term as defined in section 34d of the general property tax act, 1893 PA 206, MCL 211.34d.

(7) The department of treasury may withhold all or a portion of payments under this section to a county that has not timely furnished the statement required under section 151(1) of the state school aid act of 1979, 1979 PA 94, MCL 388.1751, or distributed an industrial facilities tax as required under 1974 PA 198, MCL 207.551 to 207.572, or the specific tax as required under section 21b of the enterprise zone act, 1985 PA 224, MCL 125.2121b. Before withholding all or a portion of the payments under this section to a county, the department shall inform the county in writing of the intent to withhold payments and offer an opportunity for an informal conference on the matter.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1992, Act 68, Imd. Eff. May 28, 1992;—Am. 1996, Act 342, Imd. Eff. June 27, 1996;—Am. 1996, Act 468, Imd. Eff. Dec. 26, 1996;—Am. 1998, Act 532, Imd. Eff. Jan. 12, 1999;—Am. 2002, Act 679, Imd. Eff.

Dec. 30, 2002;—Am. 2003, Act 168, Imd. Eff. Aug. 13, 2003;—Am. 2004, Act 77, Imd. Eff. Apr. 21, 2004;—Am. 2004, Act 356, Imd. Eff. Sept. 30, 2004.

141.911a Repealed. 1998, Act 532, Imd. Eff. Jan. 12, 1999.

Compiler's note: The repealed section pertained to bipartisan revenue sharing task force.

141.912 Payments to cities, villages, and townships from sales tax collections; time and basis.

Sec. 12. (1) For state fiscal years before the 1996-1997 state fiscal year, the department of treasury shall cause to be paid to each city, village, and township its share, computed on a per capita basis, during each August, November, February, and May, of the collections designated for assistance to townships, cities, and villages under section 10 of article IX of the state constitution of 1963 from the sales tax for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to cities, villages, and townships.

(2) For state fiscal years before the 1996-1997 state fiscal year, during each calendar year, the department of treasury shall cause to be advanced and paid in June to cities, villages, and townships on a per capita basis $9,500,000.00 of the amount that would otherwise be paid in August pursuant to subsection (1).

(3) For state fiscal years after the 1995-1996 state fiscal year and before the 2003-2004 state fiscal year, the department shall cause to be paid to each city, village, and township its share, computed on a per capita basis, during each October, December, February, April, June, and August, the collections designated for assistance to cities, villages, and townships under section 10 of article IX of the state constitution of 1963 from the sales tax, the collections that are available for distribution to cities, villages, and townships. Payments under this subsection shall be based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30.

(4) For state fiscal years after the 2002-2003 state fiscal year, the department shall cause to be paid to each city, village, and township its share of the sales tax collections designated for assistance to cities, villages, and townships under section 10 of article IX of the state constitution of 1963 from the sales tax. Payments under this subsection shall be made during each October, December, February, April, June, and August, based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30. The payments under this subsection shall be made from revenues collected during the state fiscal year in which the payments are made.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1975, Act 245, Imd. Eff. Sept. 4, 1975;—Am. 1980, Act 394, Imd. Eff. Jan. 7, 1981;—Am. 1992, Act 161, Imd. Eff. July 16, 1992;—Am. 1993, Act 166, Imd. Eff. Sept. 16, 1993;—Am. 1994, Act 299, Imd. Eff. July 14, 1994;—Am. 1995, Act 134, Imd. Eff. July 10, 1995;—Am. 1996, Act 342, Imd. Eff. June 27, 1996;—Am. 2002, Act 679, Imd. Eff. Dec. 30, 2002.

141.912a Payments to cities, villages, townships, and counties; calculations; interest; payment of proportionate share of reimbursements to eligible authorities; disbursement dates.

Sec. 12a. (1) For state fiscal years before the 1998-1999 state fiscal year, the department of treasury shall calculate the amount of payment to be made to a city, village, or township by multiplying the amount of state equalized value of tax exempt inventory property as certified by the department of treasury under former section 132 of the single business tax act, 1975 PA 228, times the property tax rate for each taxing unit as certified each year to the department of treasury for purposes of this act.

(2) For state fiscal years before the 1998-1999 state fiscal year, the department of treasury shall pay to each county each year, following the year the amount was calculated, an amount equal to the product of the state equalized value of inventory as certified by the department of treasury under former section 132 of the single business tax act, 1975 PA 228, times the county property tax rate for the county as reported each year to the department of treasury.

(3) For state fiscal years after the 1995-1996 state fiscal year in which payment is made under this section, the payment under this section shall be from the collections, exclusive of the amount designated for assistance to townships, cities, and villages under section 10 of article IX of the state constitution of 1963, of the sales tax levied at a rate of 4%.

(4) Payments made under this section, and the allocation and appropriation of amounts necessary to make the payments under this section, shall include interest which shall accrue on the unpaid balance. Interest shall accrue at the rate determined under section 13b.

(5) A payment required to be made under this section shall not be delayed so as to cause interest to accrue pursuant to subsection (4) unless the delay in any payment is authorized by a written directive issued and signed by the governor that conforms to and is subject to section 13b(2) and (3).

(6) Amounts required to be paid pursuant to this section that are subject to an unavoidable delay of a de minimis period or that are withheld or set off pursuant to law in the settlement or adjustment of an obligation or debt due to this state are not subject to subsections (4) and (5).

(7) For state fiscal years before the 1998-1999 state fiscal year, the treasurer of any city, village, township, or county who collects money for an authority that levies property taxes, shall pay an eligible authority its proportionate share of the reimbursements under this section. The proportionate share is the percentage that the property taxes collected by the authority are to the property taxes of the assessing unit. The property taxes of the authorities may be added to the millages used to determine payments under this section. For an authority to be eligible for compensation under this section, that authority shall have an authorization to have taxes levied for its use as provided by law. School districts, intermediate school districts, community college districts, vocational education districts, and special education districts are not included under this section.

(8) Subject to section 13d, for the 1998-1999 through 2006-2007 state fiscal years, the treasurer of any city, village, township, or county who collects money for an authority that levies property taxes shall pay an eligible authority, from the payments received under this act, the amount received by the eligible authority under subsection (7) for the 1997-1998 state fiscal year. School districts, intermediate school districts, community college districts, vocational education districts, and special education districts are not included under this section.

(9) The state treasurer may make a disbursement for a payment under this section that has been delayed in advance of the date the delayed payment is expected to be paid.

(10) Payments under this section to cities and villages shall be made on or before October 31 and payments under this section to counties and townships shall be made on or before February 28.

History: Add. 1996, Act 342, Imd. Eff. June 27, 1996;—Am. 1998, Act 532, Imd. Eff. Jan. 12, 1999;—Am. 2007, Act 30, Imd. Eff. June 29, 2007.

141.913 Payments to cities, villages, and townships from state income tax and single business tax; payments based on sales tax collections; population more than or less than 750,000; limitations; distributions; payment dates; annual appropriation by legislature; withholding payments.

Sec. 13. (1) This subsection and subsection (2) apply to distributions to cities, villages, and townships during the state fiscal years before the 1996-1997 state fiscal year of collections from the state income tax and single business tax. Except as otherwise provided in subsection (2), the department of treasury shall cause to be paid to each city, village, and township its share, computed in accordance with the tax effort formula, of the following revenues:

(a) During each August, November, February, and May, the collections from the state income tax for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to cities, villages, and townships under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(b) The amount of the collections from the single business tax available for distribution to cities, villages, and townships under former section 136 of the single business tax act, 1975 PA 228.

(2) The amount of collections of the state income tax otherwise available for distribution to cities, villages, and townships in November, February, and May, computed in accordance with the tax effort formula, shall be increased by $22,600,000.00. The amount of collections otherwise available for distribution to cities, villages, and townships in August, computed in accordance with the tax effort formula, shall be decreased by $67,800,000.00.

(3) This subsection applies to distributions to cities, villages, and townships for the 1996-1997 state fiscal year. The department shall cause to be paid in accordance with the tax effort formula an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a.

(4) The department of treasury shall cause to be paid during the 1997-1998 state fiscal year an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a, both of the following:

(a) To each city, village, and township, the amount of collections distributed under subsection (3) to cities, villages, and townships for the 1996-1997 state fiscal year or its pro rata share of the collections if the collections are less than the amount of collections distributed under subsection (3) for the 1996-1997 state fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed using the tax effort formula.

(b) To each city, village, and township its share of the collections to the extent the total collections available for distribution under this subsection exceed the amount distributed to cities, villages, and townships under subdivision (a) for the fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed on a per capita basis.

(5) Subject to section 13d, for the 1998-1999 through 2006-2007 state fiscal years, the department of treasury shall cause distributions determined under subsections (6) to (13) to be paid to each city, village, and township from an amount equal to 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made. After September 30, 2007, 74.94% of 21.3% of sales tax collections at a rate of 4% shall be distributed to cities, villages, and townships as provided by law.

(6) Subject to section 13d, for the 1998-1999 through 2006-2007 state fiscal years, except for the 2002-2003 through 2006-2007 state fiscal years, and except as otherwise provided in subsection (15), the department of treasury shall cause to be paid $333,900,000.00 to a city with a population of 750,000 or more as the total combined distribution under this act and section 10 of article IX of the state constitution of 1963 as annualized for any period of less than 12 months to that city. For the 2002-2003 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of $322,213,500.00 or $333,900,000.00 multiplied by the percentage as determined under this subsection. For the 2002-2003 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $791,070,000.00 by $1,515,644,218.00. For the 2003-2004 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 92%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2002-2003 state fiscal year. For the 2003-2004 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $724,800,000.00 by $1,407,850,000.00 and then subtracting 0.08. For the 2004-2005 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2003-2004 state fiscal year. For the 2004-2005 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $445,300,000.00 by $1,126,300,000.00. For the 2005-2006 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2004-2005 state fiscal year. For the 2005-2006 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 for the 2005-2006 state fiscal year and $423,350,000.00 by $1,115,875,000.00. For the 2006-2007 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2005-2006 state fiscal year. For the 2006-2007 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 for the 2006-2007 state fiscal year and $407,485,000.00 by $1,106,410,000.00.

(7) Except as otherwise provided in this subsection, distributions under subsections (8) to (13) to cities, villages, and townships with populations of less than 750,000 shall be made from the amount available for distribution under this section that remains after the distribution under subsection (6) is made. For the 2002-2003 state fiscal year only, each city, village, and township with a population of less than 750,000 shall receive the lesser of 96.5%, or the percentage determined under this subsection, of the amount that the city, village, or township would have received if the total available for distribution under subsections (8) to (13) were $363,069,728.00 and the total available for distribution under section 10 of article IX of the state constitution of 1963 were $607,125,488.00. The total amount available for distribution to all cities, villages, and townships under this subsection shall not exceed $936,238,383.00. For the 2002-2003 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $791,070,000.00 by $1,515,644,218.00. For the 2003-2004 state fiscal year only, each city, village, and township with a population of less than 750,000 shall receive an amount equal to the lesser of 92%, or the percentage determined under this subsection, of the amount distributed to the city, village, or township under this subsection and section 10 of article IX of the state

constitution of 1963 for the 2002-2003 state fiscal year. For the 2003-2004 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $724,800,000.00 by $1,407,850,000.00 and then subtracting 0.08. For the 2004-2005 state fiscal year only, the combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 to each city, village, and township with a population of less than 750,000 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution to that city, village, or township under this subsection and section 10 of article IX of the state constitution of 1963 for the 2003-2004 state fiscal year. For the 2004-2005 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $445,300,000.00 by $1,126,300,000.00. For the 2005-2006 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2004-2005 state fiscal year. For the 2005-2006 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 for the 2005-2006 state fiscal year and $423,350,000.00 by $1,115,875,000.00. For the 2006-2007 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2005-2006 state fiscal year. For the 2006-2007 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 for the 2006-2007 state fiscal year and $407,485,000.00 by $1,106,410,000.00. The amount of the adjustment under this subsection shall be accomplished by reducing the payments under subsections (8) to (13), and payments under section 10 of article IX shall not be reduced based on any adjustments made under this subsection.

(8) Subject to section 13d, for the 1998-1999 through 2006-2007 state fiscal years, for cities, villages, and townships with populations of less than 750,000, subject to the limitations under this section, a taxable value payment shall be made to each city, village, and township determined as follows:

(a) Determine the per capita taxable value for each city, village, and township by dividing the taxable value of that city, village, or township by the population of that city, village, or township.

(b) Determine the statewide per capita taxable value by dividing the total taxable value of all cities, villages, and townships by the total population of all cities, villages, and townships.

(c) Determine the per capita taxable value ratio for each city, village, and township by dividing the statewide per capita taxable value by the per capita taxable value for that city, village, or township.

(d) Determine the adjusted taxable value population for each city, village, and township by multiplying the per capita taxable value ratio as determined under subdivision (c) for that city, village, or township by the population of that city, village, or township.

(e) Determine the total statewide adjusted taxable value population which is the sum of all adjusted taxable value population for all cities, villages, and townships.

(f) Determine the taxable value payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and dividing that result by the total statewide adjusted taxable value population as determined under subdivision (e).

(g) Determine the taxable value payment for each city, village, and township by multiplying the result under subdivision (f) by the adjusted taxable value population for that city, village, or township.

(9) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section and except as provided in subsection (14), a unit type population payment shall be made to each city, village, and township with a population of less than 750,000 determined as follows:

(a) Determine the unit type population weight factor for each city, village, and township as follows:

(*i*) For a township with a population of 5,000 or less, the unit type population weight factor is 1.0.

(*ii*) For a township with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.2.

(*iii*) For a township with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 1.44.

(*iv*) For a township with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 1.73.

(*v*) For a township with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 2.07.

(*vi*) For a township with a population of more than 80,000, the unit type population weight factor is 2.49.

(*vii*) For a village with a population of 5,000 or less, the unit type population weight factor is 1.5.

(*viii*) For a village with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.8.

(*ix*) For a village with a population of more than 10,000, the unit type population weight factor is 2.16.

(*x*) For a city with a population of 5,000 or less, the unit type population weight factor is 2.5.

(*xi*) For a city with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 3.0.

(*xii*) For a city with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 3.6.

(*xiii*) For a city with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 4.32.

(*xiv*) For a city with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 5.18.

(*xv*) For a city with a population of more than 80,000 but less than 160,001, the unit type population weight factor is 6.22.

(*xvi*) For a city with a population of more than 160,000 but less than 320,001, the unit type population weight factor is 7.46.

(*xvii*) For a city with a population of more than 320,000 but less than 640,001, the unit type population weight factor is 8.96.

(*xviii*) For a city with a population of more than 640,000, the unit type population weight factor is 10.75.

(b) Determine the adjusted unit type population for each city, village, and township by multiplying the unit type population weight factor for that city, village, or township as determined under subdivision (a) by the population of the city, village, or township.

(c) Determine the total statewide adjusted unit type population, which is the sum of the adjusted unit type population for all cities, villages, and townships.

(d) Determine the unit type population payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and then dividing that result by the total statewide adjusted unit type population as determined under subdivision (c).

(e) Determine the unit type population payment for each city, village, and township by multiplying the result under subdivision (d) by the adjusted unit type population for that city, village, or township.

(10) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section, a yield equalization payment shall be made to each city, village, and township with a population of less than 750,000 sufficient to provide the guaranteed tax base for a local tax effort not to exceed 0.02. The payment shall be determined as follows:

(a) The guaranteed tax base is the maximum combined state and local per capita taxable value that can be guaranteed in a state fiscal year to each city, village, and township for a local tax effort not to exceed 0.02 if an amount equal to 74.94% of 21.3% of the state sales tax at a rate of 4% is distributed to cities, villages, and townships whose per capita taxable value is below the guaranteed tax base.

(b) The full yield equalization payment to each city, village, and township is the product of the amounts determined under subparagraphs (*i*) and (*ii*):

(*i*) An amount greater than zero that is equal to the difference between the guaranteed tax base determined in subdivision (a) and the per capita taxable value of the city, village, or township.

(*ii*) The local tax effort of the city, village, or township, not to exceed 0.02, multiplied by the population of that city, village, or township.

(c) The yield equalization payment is the full yield equalization payment divided by 3.

(11) For state fiscal years after the 1997-1998 state fiscal year, distributions under this section for cities, villages, and townships with populations of less than 750,000 shall be determined as follows:

(a) For the 1998-1999 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(b) For the 1999-2000 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(c) For the 2000-2001 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(d) For the 2001-2002 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(e) For the 2002-2003 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(f) For the 2003-2004 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(g) For the 2004-2005 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(h) For the 2005-2006 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(i) For the period of October 1, 2006 through September 30, 2007, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(12) Except as otherwise provided in this subsection, the total payment to any city, village, or township under this act and section 10 of article IX of the state constitution of 1963 shall not increase by more than 8% over the amount of the payment under this act and section 10 of article IX of the state constitution of 1963 in the immediately preceding state fiscal year. From the amount not distributed because of the limitation imposed by this subsection, the department shall distribute an amount to certain cities, villages, and townships such that the percentage increase in the total payment under this act and section 10 of article IX of the state constitution of 1963 from the immediately preceding state fiscal year to each of those cities, villages, and townships is equal to, but does not exceed, the percentage increase from the immediately preceding state fiscal year of any city, village, or township that does not receive a distribution under this subsection. This subsection does not apply for state fiscal years after the 2000 federal decennial census becomes official to a city, village, or township with a 10% or more increase in population from the official 1990 federal decennial census to the official 2000 federal decennial census.

(13) The percentage allocations to distributions under subsections (8) to (10) pursuant to subsection (11) shall be calculated as if, in any state fiscal year, the amount appropriated under this section for distribution to cities, villages, and townships is 74.94% of 21.3% of the sales tax at a rate of 4%. If the amount appropriated under this section to cities, villages, and townships is less than 74.94% of 21.3% of the sales tax at a rate of 4%, any reduction made necessary by this appropriation in distributions to cities, villages, and townships shall first be applied to the distribution under subsections (8) to (10) and any remaining amount shall be applied to the other distributions under this section.

(14) A township that provides for or makes available fire, police on a 24-hour basis either through contracting for or directly employing personnel, water to 50% or more of its residents, and sewer services to 50% or more of its residents and has a population of 10,000 or more or a township that has a population of 20,000 or more shall use the unit type population weight factor under subsection (9)(a) for a city with the same population as the township.

(15) For a state fiscal year in which the sales tax collections decrease from the sales tax collections for the immediately preceding state fiscal year, the department shall reduce the amount to be distributed to a city with a population of 750,000 or more under subsection (6) by an amount determined by subtracting the amount the city is eligible for under section 10 of article IX of the state constitution of 1963 for the state fiscal year from $333,900,000.00 and multiplying that result by the same percentage as the percentage decrease in sales tax collections for that state fiscal year as compared to sales tax collections for the immediately preceding state fiscal year. This subsection does not apply to the 2002-2003 through 2006-2007 state fiscal years.

(16) Notwithstanding any other provision of this section for the 1998-1999 state fiscal year, the total combined amount received by each city, village, and township under this section and section 10 of article IX

of the state constitution of 1963 shall not be less than the combined amount received under this section, section 12a, and section 10 of article IX of the state constitution of 1963 in the 1997-1998 state fiscal year. The increase, if any, for each city, village, and township from the 1997-1998 state fiscal year, other than a city that receives a distribution under subsection (6), shall be reduced by a uniform percentage to the extent necessary to fund distributions under this subsection.

(17) The payments under subsections (3), (4), and (5) shall be made during each October, December, February, April, June, and August. Payments under subsections (3), (4), and (5) shall be based on collections from the sales tax at the rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only, the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a.

(18) Payments under this section shall be made from revenues collected during the state fiscal year in which the payments are made.

(19) Distributions provided for by this act are subject to an annual appropriation by the legislature.

(20) After the department has informed a city, village, or township in writing of the intent to withhold all or a portion of payments under this section and offered the affected city, village, or township an opportunity for an informal conference on the matter, the department of treasury may withhold all or a portion of payments under this section to a city, village, or township that has not distributed 1 or more of the following:

(a) An industrial facilities tax as required under 1974 PA 198, MCL 207.551 to 207.572.

(b) The specific tax as required under section 21b of the enterprise zone act, 1985 PA 224, MCL 125.2121b.

(c) Any portion of the state education tax levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or of property taxes levied for any purpose by a local or intermediate school district under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, determined by the state tax commission to have been wrongfully captured and retained to implement a tax increment financing plan under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1973, Act 69, Imd. Eff. July 23, 1973;—Am. 1975, Act 245, Imd. Eff. Sept. 4, 1975;—Am. 1980, Act 275, Imd. Eff. Oct. 8, 1980;—Am. 1983, Act 146, Imd. Eff. July 18, 1983;—Am. 1992, Act 68, Imd. Eff. May 28, 1992;—Am. 1995, Act 134, Imd. Eff. July 10, 1995;—Am. 1996, Act 342, Imd. Eff. June 27, 1996;—Am. 1998, Act 532, Imd. Eff. Jan. 12, 1999;—Am. 2002, Act 679, Imd. Eff. Dec. 30, 2002;—Am. 2003, Act 168, Imd. Eff. Aug. 13, 2003;—Am. 2004, Act 77, Imd. Eff. Apr. 21, 2004;—Am. 2004, Act 355, Imd. Eff. Sept. 30, 2004;—Am. 2005, Act 196, Imd. Eff. Nov. 7, 2005;—Am. 2006, Act 437, Imd. Eff. Oct. 5, 2006.

141.913a Census delay adjustment payments; eligibility of city, village, or township; calculation; reservation of additional sum; appropriation; reduction of amounts reserved.

Sec. 13a. (1) Following the official certification and publication of the 1980 federal decennial census, the department of management and budget shall calculate for each city, village, and township:

(a) The payment of revenues a city, village, or township would have received under sections 12 and 13 between April 1, 1980 and October 1, 1980 if those payments had been distributed according to the 1980 census.

(b) The difference in payments determined by subtracting the payment of revenues which were made to a city, village, or township between April 1, 1980 and October 1, 1980 under sections 12, 13, and 14a from the calculation made for the city, village, or township in subdivision (a).

(c) The sum of all the differences in payments determined by subdivision (b) that are greater than zero. This sum shall be known as “the census delay adjustment”.

(2) A city, village, or township which has a population according to the 1980 census greater than the population used in computing the August, 1979 distributions to the city, village, or township under this act shall be eligible for census delay adjustment payments. The department of management and budget shall calculate the census delay adjustment payment to be made to each eligible city, village, or township pursuant to the following:

(a) Dividing the census delay adjustment determined in subsection (1)(c) by 4.

(b) Subtracting the population used in computing the August, 1979 distributions under this act for each eligible city, village, and township from the population according to the 1980 census of each eligible city, village, or township. The differences obtained shall be known as “the growth population”.

(c) Summing the differences obtained in subdivision (b).

(d) Dividing the quotient determined in subdivision (a) by the sum determined in subdivision (c). The per capita amount determined pursuant to this calculation shall be distributed in May, 1982; May, 1983; May, 1984; and May, 1985 to each eligible city, village, and township according to its growth population.

(3) The additional sum necessary to provide the distribution required by this section shall be reserved, in amounts determined pursuant to section 13(a), from the collection of state income tax available for distribution to cities, villages, and townships before payments are made under section 13.

(4) All or part of the census delay adjustment payments required in any or all payment years may be appropriated by the legislature from the state general fund and, if such an appropriation is made, the reserve provided in subsection (3), and the amounts reserved pursuant to section 13(a) from distribution in each payment period for the year shall be reduced by the amount of the general fund appropriation.

History: Add. 1980, Act 275, Imd. Eff. Oct. 8, 1980.

141.913b Payments to include interest; delay in payments; gubernatorial directive; unavoidable delay or set off; disbursement by state treasurer.

Sec. 13b. (1) In addition to the amounts required to be paid pursuant to sections 11, 12, and 13, these payments and the respective appropriations from the undedicated proceeds of the tax from which the payment is made shall include interest, which interest shall accrue on the unpaid balance of a distribution installment from the last date the respective installment is required to be paid, at the average rate of interest earned on state common cash fund investments during the calendar quarter ending immediately prior to the date the interest under this subsection on a distribution installment begins to accrue.

(2) A payment required to be made pursuant to section 11, 12, or 13 shall not be delayed so as to cause interest to accrue pursuant to subsection (1) unless the delay in any payment is authorized by a written directive issued and signed by the governor to the director of the department of management and budget and the state treasurer, containing an identification of the specific payment and amount of the payment to be delayed, the period of the delay, the reason for the delay, and the date the delayed payment is expected to be paid.

(3) The governor's authorization under subsection (2) shall be signed and issued as soon as the governor determines that the payment will be delayed, which determination shall be made as far in advance of the scheduled payment date as is reasonably possible under the circumstances. The state treasurer immediately shall take such steps as are reasonably necessary to assure that the local units for which a directive applies are notified of that gubernatorial directive.

(4) Amounts required to be paid pursuant to section 11, 12, or 13 that are subject to an unavoidable delay of a de minimis period, or that are withheld or set off pursuant to law in the settlement or adjustment or an obligation or debt due to this state, or that are withheld from payment pursuant to section 17a or 21, shall not be subject to subsections (1) to (3).

(5) The state treasurer may make a disbursement for a payment under section 11, 12, or 13 which has been delayed in advance of the date the delayed payment is expected to be paid.

History: Add. 1983, Act 236, Imd. Eff. Dec. 1, 1983.

Compiler's note: Near the middle of subsection (4), "adjustment or an obligation" evidently should read "adjustment of an obligation".

141.913c Reduced rate or collections from local governmental unit's property, income, or utility tax; use of reduction as basis.

Sec. 13c. For state fiscal years after the 1998-1999 state fiscal year, a reduction in the rate of or collections from a local unit of government's property, income, or utility tax shall not be used as a basis for a reduction of the amount distributed under this act to that local unit of government.

History: Add. 1996, Act 342, Imd. Eff. June 27, 1996.

141.913d Distribution periods less than 12 months; annualization of amount.

Sec. 13d. The department shall annualize the amount of distributions under sections 11, 12a, and 13 as necessary to reflect distributions for periods of less than 12 months.

History: Add. 1998, Act 532, Imd. Eff. Jan. 12, 1999.

141.914 Repealed. 1998, Act 532, Imd. Eff. Jan. 12, 1999.

Compiler's note: The repealed section pertained to additional sums for cities, villages, or townships.

141.914a Supplemental payments to cities, villages, or townships; computation; appropriation.

Sec. 14a. If a special census of a city, village or township that levied at least 1 mill local property tax in the preceding calendar year is determined to meet the requirements of section 7, the department of management and budget, during July, 1976 and each July thereafter, shall cause to be paid as a supplemental payment to the city, village or township its proportionate share of the amount available for this purpose, the share to be determined by multiplying the aggregate per capita amount of payments it received under sections 12, 13, 14 and 15 for the preceding July 1 to June 30 payment period by its excess increase in population determined under section 7. The amount necessary to provide the distribution required by this section is appropriated each fiscal year from the state general fund.

History: Add. 1975, Act 245, Imd. Eff. Sept. 4, 1975.

141.915 Repealed. 1998, Act 532, Imd. Eff. Jan. 12, 1999.

Compiler's note: The repealed section pertained to additional sums for cities, villages, or townships.

141.916 Repealed. 1975, Act 245, Eff. Dec. 1, 1975.

Compiler's note: The repealed section pertained to an appropriation.

141.917 Disposition of payments made to cities, villages, townships, and counties.

Sec. 17. Unless otherwise assigned, pledged, or required to be withheld, the payments made under this act to a city, village, township, or county shall be paid directly to the treasurer of the city, village, township, or county, shall be credited to the general fund of the city, village, township, or county, and shall be available for city, village, township, or county purposes.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1987, Act 283, Eff. Apr. 11, 1988.

141.917a Withholding amount equivalent to delinquent payments due on emergency municipal loan; withholding payment under act; extent; plan for financing outstanding obligations upon which municipality defaulted; use of amounts withheld; payment of debt service on bonds or notes; agreement assigning or pledging payment; statement; withholding payment to satisfy payment due and owing to state.

Sec. 17a. (1) To the extent required by the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, a municipality granted a loan pursuant to the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, shall have withheld from any payment the city, village, township, or county is eligible to receive, an amount equivalent to any delinquent payments due on the loan.

(2) The state treasurer may withhold all or part of any payment that a city, village, township, or county is eligible to receive under this act to the extent the withholdings are a component part of a plan, developed and implemented under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for financing an outstanding obligation upon which the municipality defaulted. Amounts withheld shall be used to pay, on behalf of the city, village, township, or county, unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding obligation upon which the city, village, township, or county defaulted.

(3) The state treasurer may withhold all or part of any payment that a city or village is eligible to receive under this act, after payment of all money owing to the city or village under this act that, prior to the date of a withholding under this subsection, has been pledged for the payment of debt service on bonds or notes or for the payment of contractual obligations pledged for the payment of debt service on bonds or notes, in an amount necessary to repay loans made to the city or village under section 11(6) of 1951 PA 51, MCL 247.661, after any deduction authorized by section 11(8) of 1951 PA 51, MCL 247.661, has been applied for the repayment of the loan.

(4) Under an agreement entered into by a city, village, township, or county assigning all or a portion of the payment that it is eligible to receive under this act to the Michigan municipal bond authority or pledging that amount for payment of an obligation it incurred with the Michigan municipal bond authority, the state treasurer shall transmit to the Michigan municipal bond authority or a trustee designated by the authority the amount of the payment that is assigned or pledged under the agreement. Notwithstanding the payment dates prescribed by this act for distributions under this act, the state treasurer may advance all or part of a payment that is dedicated for distribution or for which the appropriation authorizing the payment has been made if and to the extent, under the terms of an agreement entered into by a city, village, township, or county and the Michigan municipal bond authority, the payment that the city, village, township, or county is eligible to receive has been assigned to or pledged for payment of an obligation it incurred with the Michigan municipal bond authority. This subsection does not require the state to make an appropriation to any city, village, county, or township and shall not be construed as creating an indebtedness of the state. Any agreement made pursuant to this subsection shall contain a statement to that effect.

(5) The state treasurer shall withhold all or part of a payment that a city, village, township, or county is eligible to receive under this act to satisfy a payment due and owing to the state or to a state department or agency from the city, village, township, or county unless and to the extent subsection (4) requires otherwise or

unless the city, village, township, or county has pledged payments under this act for payment on an obligation issued by the municipality.

History: Add. 1980, Act 242, Imd. Eff. July 24, 1980;—Am. 1983, Act 58, Imd. Eff. May 16, 1983;—Am. 1983, Act 146, Imd. Eff. July 18, 1983;—Am. 1985, Act 143, Eff. Jan. 13, 1986;—Am. 1987, Act 283, Eff. Apr. 11, 1988;—Am. 2002, Act 404, Imd. Eff. June 3, 2002.

141.918 Report on local taxes, special assessments, overlapping taxes, and taxable value; report on levied millage rate; effect of failure to report; prorating and allocating overlapping taxes; report on local revenues; summary and analysis of reports; recommendations; report on tax collections available for distribution; distribution in single warrant; reduced millage rate considered to be 1 mill.

Sec. 18. (1) Each city, village, or township shall report its local taxes and special assessments and cities and townships shall report their overlapping taxes to the department of treasury by March 1. A city, village, or township that levied less than 1 mill in the immediately preceding calendar year, when it reports its local taxes, shall also report whether its levied millage rate would have been at least 1 mill except for the millage reductions pursuant to section 31 of article IX of the state constitution of 1963; except for a millage reduction pursuant to section 34 of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.34 of the Michigan Compiled Laws; or except for the fact that the city, village, or township did not elect to increase the millage rate permitted by operation of section 24e(2) of Act No. 206 of the Public Acts of 1893, being section 211.24e of the Michigan Compiled Laws, or for any combination of these exceptions. If a city, village, or township fails to report as provided in this section, the department of treasury shall give notice of the failure to the assessor and the chief executive officer of the city, village, or township. After the department of treasury gives notice, payments under this act shall be withheld. The withheld payments may later be issued if the city, village, or township reports before the end of the revenue sharing year. Not later than May 15, the department of treasury shall report to the department of management and budget the local taxes, special assessments, overlapping taxes, and taxable value, and whether the levied millage rate would have been at least 1 mill if the required millage reductions or limitations had not been applied, for each city, village, and township for the immediately preceding calendar year. In determining and reporting the overlapping taxes for a township and the villages within the township, the department of treasury shall prorate and allocate the overlapping taxes levied in the township to the township and each village in the same ratio that the taxable value of the unincorporated area of the township and of each village bears to the total taxable value of the township.

(2) Before December 2 of each year, each city, village, and township shall report to the department of treasury, on a form prepared by the department of treasury in consultation with the department of management and budget, all local revenues collected by the city, village, or township in the local unit's fiscal year that ends during the immediately preceding July 1 to June 30 period. The department of treasury shall accumulate the reports and submit a summary to the department of management and budget by February 1. The department of management and budget shall analyze the reports and shall make recommendations to the legislature regarding other local general fund revenues that the department considers reflective of or equivalent to local tax effort. Other local revenues do not include state or federal shared revenues, block grants, or categorical grants, or grants or gifts from other sources, but do include fees or charges imposed by the city, village, or township for municipal purposes.

(3) The department of treasury shall report to the department of management and budget the tax collections available for distribution. The department of management and budget may make the distribution in a single warrant. A millage rate certified to be levied for a city, village, or township of 1 mill or more that is reduced below 1 mill pursuant to section 31 of article IX of the state constitution of 1963, pursuant to section 34 of Act No. 206 of the Public Acts of 1893, or because the city, village, or township did not elect to increase the millage rate permitted by operation of section 24e(2) of Act No. 206 of the Public Acts of 1893, or due to any combination of these factors, shall be considered by the department of management and budget to be 1 mill for all of the following purposes:

(a) Payments under sections 12(2) and 15, which payments shall be calculated using the actual local property taxes.

(b) Determining whether the city, village, or township is eligible under section 14 for payments based upon the tax burden formula, which formula shall be calculated using the actual local property taxes.

(c) Determining whether the city, village, or township is eligible under section 14a for payments based upon the special census formula, which formula shall be calculated using the actual local property taxes.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971;—Am. 1975, Act 245, Imd. Eff. Sept. 4, 1975;—Am. 1980, Act 275, Imd. Eff. Oct. 8, 1980;—Am. 1982, Act 317, Imd. Eff. Oct. 18, 1982;—Am. 1988, Act 474, Eff. Mar. 30, 1989;—Am. 1994, Act 299, Imd. Eff. July 14, 1994;—Am. 1996, Act 342, Imd. Eff. June 27, 1996.

141.919 Effective date.

Sec. 19. This act takes effect August 1, 1971. The distributions of the income tax which were paid in August 1971 which did not conform to the provisions of this act shall be adjusted in future payments under this act to so conform.

History: 1971, Act 140, Imd. Eff. Sept. 30, 1971.

141.920 Receipts of cities, villages, or townships maintaining local tax efforts.

Sec. 20. A city, village, or township which maintains its local tax effort rate shall not receive less in the fiscal year ending June 30, 1976, than it received in the fiscal year ending June 30, 1975.

History: Add. 1975, Act 245, Imd. Eff. Sept. 4, 1975.

141.921 Withholding payments until submission of financial report or audit; filing, evaluation, certification, and institution of financial plan to correct deficit condition; noncompliance; notification of legislature; "deficit condition" defined.

Sec. 21. (1) If a city, village, township or county fails to provide an annual financial report or audit which conforms with the minimum procedures and standards prescribed by the state treasurer and is required under Act No. 2 of the Public Acts of 1968, as amended, being sections 141.421 to 141.440a of the Michigan Compiled Laws, or Act No. 71 of the Public Acts of 1919, being sections 21.41 to 21.53 of the Michigan Compiled Laws, the payments required under this act may be withheld until the financial report or audit is submitted as required by law.

(2) For a fiscal year of a unit of local government ending on or after October 1, 1980 or any year thereafter, if a local unit of government ends its fiscal year in a deficit condition, the local unit of government shall formulate and file a financial plan within 90 days after the beginning of the fiscal year to correct this condition. Upon request of a local unit of government the department of treasury may assist that local unit in the formulation of the financial plan to correct the deficit condition. The local unit of government shall file the financial plan with the department of treasury for evaluation and certification that the plan ensures that the deficit condition is corrected. Upon certification by the department of treasury, the local unit of government shall institute the plan. An amount equal to 25% of each payment to a local unit of government entitled to payments under this act may be withheld until requirements of this subsection are met.

(3) The department of treasury shall notify each house of the legislature of any local unit of government that fails to provide a financial report or an audit required by subsection (1) and of any local unit of government required to file a financial plan under subsection (2).

(4) As used in this section, "deficit condition" means a situation where, at the end of a fiscal year, total expenditures, including an accrued deficit, exceeded total revenues for that fiscal year, including any surplus carried forward.

History: Add. 1980, Act 275, Imd. Eff. Oct. 8, 1980.

EMERGENCY MUNICIPAL LOAN ACT
Act 243 of 1980

AN ACT to provide emergency financial assistance for certain municipalities; to create a local emergency financial assistance loan board and to prescribe the powers and duties of this board; to prescribe conditions for granting and receiving loans, to prescribe terms and conditions for the repayment of loans, and to allow the limiting of repayment by a county from specified revenue sources; to impose certain requirements and duties on certain state departments, municipalities of this state, and officials of the state and municipalities of this state; and to prescribe remedies and penalties.

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1988, Act 198, Imd. Eff. June 27, 1988.

The People of the State of Michigan enact:

141.931 Definitions.

Sec. 1. As used in this act:

(a) "Board" means the local emergency financial assistance loan board created under this act.

(b) "Fiscal year" means, unless otherwise provided in this act, the fiscal year of the municipality applying for a loan under this act.

(c) "Income tax collections" means the total collection of a municipality under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, in any calendar year.

(d) "Income tax revenue growth rate" means the quotient of the following:

(*i*) The numerator is the income tax collections of the municipality for the calendar year immediately preceding the municipality's application for a loan under this act.

(*ii*) The denominator is the income tax collections for the municipality for the calendar year preceding the calendar year used in determining the numerator.

(e) "Municipality" means a county, city, village, or township of this state.

(f) "Local tax base growth rate" for a municipality means the state equalized valuation of the real and personal property of the municipality for the most recent year for which data is available divided by the state equalized valuation of real and personal property of the municipality for the fifth year preceding the most recent year for which data is available.

(g) "Statewide tax base growth rate" means the total state equalized valuation for real and personal property for the most recent year for which data is available divided by the total state equalized valuation for the fifth year preceding the most recent year for which data is available.

(h) "State equalized valuation of real and personal property of the municipality" means the valuation determined under 1911 PA 44, MCL 209.1 to 209.8, of real and personal property within the municipality plus an amount equal to the state equalized valuation equivalent of certain revenues of the municipality as determined under this subdivision. The state equalized valuation equivalent shall be calculated by dividing the sum of the following amounts by the municipality's millage rate for the fiscal year:

(*i*) The amount levied by the municipality for its own use during the municipality's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(*ii*) The amount levied by the municipality for its own use during the municipality's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1987, Act 282, Eff. Apr. 11, 1988;—Am. 2007, Act 178, Imd. Eff. Dec. 21, 2007.

141.932 Local emergency financial assistance loan board; creation; membership; powers and duties; approval of actions; conducting business at public meeting; staff services.

Sec. 2. (1) There is created a local emergency financial assistance loan board within the department of treasury. This board shall consist of the state treasurer, the director of the department of consumer and industry services, and the director of the department of management and budget. Except for budgeting, procurement, and related functions of the board that shall be performed under the direction and supervision of the state treasurer, the board shall exercise its prescribed statutory powers, duties, and functions independently of the department of treasury.

(2) The board has the powers necessary to carry out and effectuate the purposes and provisions of this act, including all of the following powers:

(a) To act by an order issued in the name of the board and signed by the members of the board. The signature of the designee of a member, when the designee is acting for his or her principal, has the same force and effect as the signature of the member.

(b) To authorize and make loans; to renegotiate the terms of outstanding loans; and to make, execute, and deliver contracts and other instruments necessary or convenient to the exercise of its powers.

(c) To aid, advise, and consult with a municipality with respect to fiscal questions arising from and relating to its proposed or outstanding loans.

(d) To promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that it considers necessary.

(e) To examine the books and records of a municipality applying for or receiving a loan under this act for the purpose of ascertaining if the municipality is complying, in relation to a loan under this act, with the requirements of the board, the laws of this state, and the charter, ordinances, and resolutions of the municipality. Additionally, for effectuating this purpose, the board may require sworn statements from any officer or employee of the municipality and may require the municipality to furnish a statement of its financial condition. The board has full power, in furtherance of its investigations, to examine witnesses on oath, to compel the attendance of witnesses, to compel the giving of testimony, and to compel the production of books, papers, and records. Witnesses may be summoned by the board by its process upon the payment of the same fees as are allowed to witnesses attending in the circuit court for the county in which a hearing is held. A person duly subpoenaed under this section who fails to attend or testify at the place named in the subpoena served for that purpose is guilty of a misdemeanor.

(f) To serve notice upon a municipality of an order relating to the municipality issued by the board. A municipality has prima facie notice of and is bound by an order of the board if notice has been served upon it by registered mail addressed to any officer of the municipality upon whom legal process may be served.

(g) To enforce compliance with its orders; with the terms of outstanding loans; with any provision of this act; or, in relation to a loan under this act, with any law of this state or with the charter, ordinances, or resolutions of a municipality that received a loan under this act. As 1 method to enforce compliance, the board may institute appropriate proceedings in the courts of this state, including proceedings for writs of mandamus and injunctions.

(h) To subject a loan to the terms and conditions the board considers necessary to ensure compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, and to ensure timely repayment of the loan, including, but not limited to, requiring the direct assignment for repayment of a loan of any state money appropriated to the municipality.

(i) To provide loan terms specifying conditions and events of default and remedies available upon default by a municipality.

(j) To impose loan terms upon the disbursement of a loan authorized to be made under section 3(2)(b) or (3).

(3) The board shall review each application for a loan from a municipality to determine if the municipality satisfies the requirements of this act. Except for loans authorized under section 3(2) or (3), upon determining those applications that satisfy the application eligibility requirements of section 4 and, for subsequent annual loans, section 8, the board may authorize an annual loan to 1 or more of those eligible applicants upon declaring that a local fiscal emergency exists in the municipality. For loans authorized under section 3(2) or (3), the board may authorize a loan upon determining that the municipality has satisfied the requirements of this act applicable to loans under section 3(2) or (3).

(4) All actions of the board shall be approved by all members of the board. All meetings of the board shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) Subject to the requirements of this act, the board has the sole authority to determine all of the following:

(a) The amount of a loan.

(b) The rate or rates of interest on a loan.

(c) Any other condition related to a loan including, but not limited to, requiring that the proceeds of a loan be used for specified purposes.

(6) The department of treasury shall provide staff services to the board to carry out this act.

(7) A municipality may do 1 or more of the following:

(a) Borrow money under this act.

(b) Enter into a loan agreement with the board.

(c) Issue its notes evidencing the loan.

(d) Assign and convey any revenues allocated to it for repayment of the loan.

(e) Take any other action necessary to receive, secure, or repay a loan under this act.

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1986, Act 6, Imd. Eff. Feb. 21, 1986;—Am. 1987, Act 282, Eff. Apr. 11, 1988;—Am. 1998, Act 528, Imd. Eff. Jan. 12, 1999.

141.933 Maximum amount of loans in fiscal year; limitations; conditions; revenue for loans; "county juvenile agency" defined.

Sec. 3. (1) Except as provided in subsection (2), the board shall not authorize loans under this act to municipalities that total an amount greater than $5,000,000.00 in a state fiscal year.

(2) The board may authorize loans under this act to a county within the following limitations:

(a) In the 1998-99 state fiscal year, the board may authorize loans under this act to a county with a population greater than 1,500,000.

(b) For a state fiscal year in which the block grant appropriated to a county with a population of more than 1,500,000 that is organized under 1966 PA 293, MCL 45.501 to 45.521, and that is a county juvenile agency is less than the amount required to be distributed to that county in that year under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a loan to that county in an amount not greater than the difference between the amount of the block grant and the amount required to be distributed to that county for that fiscal year under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b. The board is not required to authorize loans under this subdivision to a county for more than 1 state fiscal year.

(3) If in a state fiscal year the block grant appropriated to a county other than a county described in subsection (2) that is a county juvenile agency is less than the amount required to be distributed to that county in that year under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a loan to that county in an amount not greater than the difference between the amount of the block grant and the amount required to be distributed to that county under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, in that state fiscal year.

(4) Sections 6(2), 7, and 8 and the conditions listed in section 4(1) do not apply to a loan authorized under subsection (2) or (3).

(5) The proceeds of a loan made under subsection (2) or (3) shall be maintained in a separate account and shall not be comingled with the county's general fund or any other special fund or account.

(6) The state treasurer or his or her designee shall monitor the expenditure of the proceeds of any loan made under subsection (2) or (3).

(7) The proceeds of a loan made under subsection (2) or (3) are subject to the requirements of the county juvenile agency act.

(8) Revenue for loans made under this act shall be provided from the surplus funds of this state under authorization granted under section 1 of 1855 PA 105, MCL 21.141.

(9) As used in this section, "county juvenile agency" means that term as defined in section 2 of the county juvenile agency act.

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1987, Act 282, Eff. Apr. 11, 1988;—Am. 1998, Act 528, Imd. Eff. Jan. 12, 1999.

141.934 Application for loan; resolution; certification of information and conditions; inspection, copying, or auditing of books and records; applicability of subsection (1).

Sec. 4. (1) If the governing body of a municipality desires to request a loan, it shall provide by resolution for the submission of an application to the board for a loan made under this act. The municipality shall certify and substantiate all of the following information and conditions to be eligible for consideration for a loan authorization by the board:

(a) A deficit for the municipality's general fund is projected for the current fiscal year.

(b) That 1 or both of the following have occurred within the 6 months immediately preceding the loan request:

(*i*) The municipality has issued tax anticipation notes or revenue sharing notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(*ii*) The department of treasury has acted upon a request by the municipality to issue tax anticipation notes or revenue sharing notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(c) The municipality meets 1 or more of the following conditions:

(*i*) Its income tax revenue growth rate is .90 or less, or the municipality has 2 or more emergency loans outstanding at the time its application is submitted and its income tax revenue growth rate is 1.3 or less.

(*ii*) Its local tax base growth rate is 75% or less of the statewide tax base growth rate.

(*iii*) The state equalized valuation of real and personal property within the municipality at the time the loan application is made is less than the state equalized valuation of real and personal property within the municipality in the immediately preceding year.

(d) The municipality submits a long-range plan, that has been approved by the governing body of the municipality, outlining actions to be taken to balance future expenditures with anticipated revenues.

(2) If the board determines it necessary, the board may inspect, copy, or audit the books and records of a municipality.

(3) Subsection (1) does not apply to a loan authorized under section 3(2) or (3).

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1983, Act 67, Imd. Eff. May 31, 1983;—Am. 1986, Act 6, Imd. Eff. Feb. 21, 1986;—Am. 1998, Act 528, Imd. Eff. Jan. 12, 1999;—Am. 2002, Act 405, Imd. Eff. June 3, 2002;—Am. 2007, Act 198, Imd. Eff. Dec. 21, 2007.

141.935 Maximum amount of loans; eligibility.

Sec. 5. Except for a county subject to section 3(2), the board may authorize loans to any 1 municipality in an amount not to exceed $3,000,000.00 in any 1 fiscal year of the municipality. Except for a county subject to section 3(2), a municipality is not eligible to receive loans in more than 5 fiscal years in any 10-year period.

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1987, Act 282, Eff. Apr. 11, 1988;—Am. 2007, Act 198, Imd. Eff. Dec. 21, 2007.

141.936 Annual rate or rates of interest; fixed rate; rate calculated upon formula; limitation; payment of interest and principal; delinquency; repayment at earlier date or in fewer installments; prohibited conditions; effect of failure to make repayments; loan as general obligation of municipality; exception.

Sec. 6. (1) A loan made under this act shall bear an annual rate or rates of interest, if any, as established by the board under section 2(5). The board may establish interest for a loan under this act either at a rate or rates that are fixed for the term of the loan or, if the formula is approved by the board at the time the loan is made or renegotiated as authorized in section 2, at a rate calculated upon a formula that varies the rate annually. If the interest rate for a loan under this act is a single fixed rate, the annual rate of interest for the term of a loan shall not exceed the average rate of interest earned at the time the loan is approved by the board on the investment of surplus funds, other than those surplus funds invested under this act and section 1 of 1855 PA 105, MCL 21.141.

(2) Interest payments are due and payable annually, beginning 1 year after the loan is issued to the municipality. Notes of indebtedness executed to the state by a municipality for a loan made under this act shall not require payment of principal until 10 years after the loan is issued to the municipality. Repayment of the principal shall be made in not less than 10 equal annual installments, except as provided in subsection (5). This subsection, sections 7 and 8, and the conditions listed in section 4(1) do not apply to a loan authorized under section 3(2) or (3).

(3) The loan agreement between the board and a county for a loan authorized under section 3(2) or (3) shall establish the schedule for payment of the principal of and interest on the loan, the nature of the obligation of the county to repay a loan made under this act, and any security for that loan. Payments of principal and interest for a loan authorized by section 3(2) shall be limited to revenues allocated to the county under the health and safety fund act, 1987 PA 264, MCL 141.471 to 141.479, minus those revenues authorized by the board in the loan agreement for use in the payment of other county obligations.

(4) Unless other state appropriations to a municipality are pledged or assigned in an amount sufficient for the municipality to make a required principal or interest payment, if the municipality's payment of required principal or interest is delinquent, the state treasurer shall withhold the amount of all delinquent payments that are due on a loan issued under this act from state payments to the municipality under the state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

(5) Notwithstanding the payment schedules and methods established by this section or by the terms of a loan agreement, a municipality may initiate repayment of all or part of a loan made under this act at an earlier date or may make repayment in fewer installment payments, or both. The board shall not condition either eligibility for consideration for a loan or the grant of a loan under this act on repayment schedules and terms other than those required by subsections (1), (2), (3), and (4). In addition, failure of a municipality to make repayments under terms or a schedule it has instituted under this subsection does not disqualify the municipality from eligibility for consideration for loans in subsequent fiscal years.

(6) A loan issued under this act shall be a general obligation of the municipality except that a loan issued under section 3(2) shall not be a general obligation of the municipality and shall be repaid solely from specific revenues pledged for repayment of the loan.

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1986, Act 6, Imd. Eff. Feb. 21, 1986;—Am. 1987, Act 282, Eff. Apr. 11, 1988;—Am. 1988, Act 198, Imd. Eff. June 27, 1988;—Am. 1998, Act 528, Imd. Eff. Jan. 12, 1999.

141.937 Duties of municipality receiving loan; definitions; exception.

Sec. 7. (1) A municipality that receives a loan under this act shall perform all of the following:

(a) Employ a full-time professional administrator to direct or participate directly in the management of the municipality's operations until otherwise ordered by the board.

(b) Not more than 6 months after receiving a loan and semiannually after that date for the period the loan is outstanding, submit to the board an evaluation of the performance of the municipality against the long-range plan submitted under section 4(1).

(c) Submit all of the following to the board on a quarterly basis:

(*i*) A statement of actual revenues received in the last quarter and in the current fiscal year to date.

(*ii*) A statement of total revenues estimated to be received by the municipality in the current fiscal year.

(*iii*) A statement of expenditures made and encumbrances entered into by the municipality in the last quarter and in the current fiscal year to date.

(*iv*) A statement of revenues that were estimated to be received and expenditures that were estimated to be made during the current fiscal year and through the end of the last quarter.

(*v*) A balance sheet indicating whether total estimated expenditures for the current fiscal year and for the last quarter exceed the total estimated revenues for the current fiscal year and for the last quarter, respectively.

(d) Submit the general appropriations act of the municipality, and any amendments to that act, adopted under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, or any equivalent report as may be required by the board if the municipality is not required to adopt a general appropriations act.

(e) Submit any budget change in the current fiscal year or any amendment to the general appropriations act of the municipality for the current fiscal year to the board before adoption.

(f) Submit any budget for the ensuing fiscal year or the general appropriations act of the municipality for the ensuing fiscal year to the board before adoption.

(g) Certify that the municipality has fully complied with all statutory requirements concerning use of the uniform chart of accounts and audits.

(2) As used in this section, “expenditure” and “revenue” mean those terms as defined in sections 2c and 2d of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.422c and 141.422d.

(3) Subsection (1) does not apply to a loan authorized under section 3(2) or (3).

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1986, Act 6, Imd. Eff. Feb. 21, 1986;—Am. 1998, Act 528, Imd. Eff. Jan. 12, 1999.

141.938 Additional eligibility requirements; exception.

Sec. 8. (1) In addition to the requirements of section 4, to be eligible for consideration for a fiscal year loan under this act after having qualified for and received the first or any subsequent fiscal year loan under this act, a municipality shall satisfy all of the following requirements:

(a) Fulfilled the requirements of section 7.

(b) Submitted a progress report to the board detailing the steps that have been taken to achieve the long-range plan submitted pursuant to section 4(1) and the management measures that have been taken to improve fiscal management of the municipality.

(c) Satisfy the board that reasonable progress has been made to resolve any federal discrimination suit pending against the municipality.

(2) Subsection (1) does not apply to a loan authorized under section 3(2) or (3).

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1986, Act 6, Imd. Eff. Feb. 21, 1986;—Am. 1998, Act 528, Imd. Eff. Jan. 12, 1999.

141.939 Annual report; evaluation of loan program; recommendations.

Sec. 9. The board shall report annually to the governor and the legislature on which municipalities have applied for loans under the program, which municipalities have received loans, the amount of each loan, and the conditions under which each loan was made. Five years after the effective date of this act, the board shall submit to the governor and the legislature an evaluation of the loan program with recommendations for its continuance or discontinuance.

History: 1980, Act 243, Imd. Eff. July 24, 1980.

141.940 Repealed. 1980, Act 324, Imd. Eff. Dec. 15, 1980.

Compiler's note: The repealed section pertained to local emergency financial assistance loan fund.

141.941 Short title.

Sec. 11. This act may be known and may be cited as the “emergency municipal loan act”.

History: 1980, Act 243, Imd. Eff. July 24, 1980.

141.942 Conditional effective date.

Sec. 12. This act shall not take effect unless the following Senate Bills of the 1980 regular session of the legislature are enacted into law:

(a) Senate Bill No. 1192.

(b) Senate Bill No. 1193.

History: 1980, Act 243, Imd. Eff. July 24, 1980.

Compiler's note: Senate Bill No. 1192, referred to in this section, was approved by the Governor on July 24, 1980, and became P.A. 1980, No. 242, Imd. Eff. July 24, 1980. Senate Bill No. 1193, also referred to in this section, was approved by the Governor on July 24, 1980, and became P.A. 1980, No. 241, Imd. Eff. July 24, 1980.

FIRE PROTECTION SERVICES FOR STATE FACILITIES
Act 289 of 1977

AN ACT to provide for payments to municipalities for fire protection services received by state facilities; to prescribe the powers and duties of certain state and local agencies and officials; and to authorize the proration of certain appropriations.

History: 1977, Act 289, Eff. Mar. 30, 1978.

The People of the State of Michigan enact:

141.951 Definitions.

Sec. 1. As used in this act:

(a) “Director” means the director of the department of management and budget.

(b) “Estimated equalized value” means 50% of the final estimated value of a state facility as determined by the director.

(c) “Municipality” means a city, village, or township.

(d) “State facility” means state owned real property associated with buildings primarily used for office purposes, state prisons, or hospitals, institutions of higher education, and state owned real and inventory personal property associated with a state proprietary function, the inventory personal property of which shall be valued on the basis of the average monthly inventory for the preceding state fiscal year.

History: 1977, Act 289, Eff. Mar. 30, 1978.

141.952 Payments to municipalities with state-owned facilities; plan; report; date of valuation; consultations; furnishing local assessor and state tax commission with copies of director's report; recommendations for adjustments to proposed valuations; date of final determination; notice of final estimated value and final estimated equalized value.

Sec. 2. (1) For the fiscal year beginning October 1, 1977, the director shall present to the house and senate appropriations committees a plan for the distribution of those funds appropriated in Act No. 91 of the Public Acts of 1977 for payments to municipalities with state owned facilities in lieu of taxes for services rendered. The payments to municipalities shall be made before July 1, 1978.

(2) For state fiscal years beginning after September 30, 1978, the director shall, annually by the preceding July 1, prepare a report for each municipality in which a state facility is located listing each state facility and the value of each state facility. The date of valuation shall be December 31 of the prior year. The director shall consult with the state tax commission, the director of the bureau of facilities in the department of management and budget, and with the assessor of the affected municipality.

(3) Copies of the director's report shall be furnished to the local assessor and the state tax commission, who may submit recommendations for adjustments to the proposed valuations within 30 days.

(4) By September 1 of each year the director shall make a final determination of value which may not be further appealed. The director shall notify the assessor, the state agency, and the treasurer of the municipality of the final estimated value for that year, and the final estimated equalized value for that year.

History: 1977, Act 289, Eff. Mar. 30, 1978.

141.953 Submission of data by municipality; form; review of data; certification of amount; warrant.

Sec. 3. (1) By September 1 of each year, a municipality in which a state facility is located shall submit to the director the following:

(a) The dollar amount of the actual expenditures for fire protection for the municipality's preceding fiscal year.

(b) The current state equalized valuation.

(c) Certification that fire protection is provided to a state facility in the same manner as those services are provided to the municipality.

(2) Information on fire protection expenditures and state equalized valuation shall be submitted in a form prescribed by the director.

(3) The director shall review the data submitted and, before November 1 of each year, shall certify to the state treasurer an amount, determined pursuant to the formula set forth in section 4, to be paid to a municipality in which a state facility is located.

(4) The state treasurer shall draw a warrant upon the general fund of the state for the amount certified to be paid to a municipality and shall forward the warrant to the treasurer of the municipality before December 1 of

each year, except as provided in section 2(1).

History: 1977, Act 289, Eff. Mar. 30, 1978.

141.954 Determination of amount due municipality; conditions precluding payment.

Sec. 4. (1) The amount due the municipality shall be determined by dividing the estimated equalized value of the state facilities located in the municipality by the sum of the state equalized valuation of the municipality and the estimated equalized value of the facilities, and multiplying the result by the fire protection expenditures of the municipality reported to the director pursuant to section 3(2).

(2) A payment shall not be made to a municipality if the amount of the payment is less than $500.00, if the estimated equalized value of the state facility in the municipality is less than 1% of the amount of the state equalized valuation of the municipality, or if the state facility provides its own fire protection.

History: 1977, Act 289, Eff. Mar. 30, 1978.

141.955 State facility not prohibited from entering contract pursuant to MCL 17.71 et seq.

Sec. 5. This act shall not prohibit a state facility from entering into a contract pursuant to Act No. 98 of the Public Acts of 1929, as amended, being sections 17.71 to 17.76 of the Michigan Compiled Laws.

History: 1977, Act 289, Eff. Mar. 30, 1978.

141.956 Prorating amount appropriated to each municipality.

Sec. 6. If the amount appropriated in a fiscal year is not sufficient to make the payments required by this act, the director shall prorate the amount appropriated to each municipality.

History: 1977, Act 289, Eff. Mar. 30, 1978.

STATE PAYMENTS TO LOCAL GOVERNMENTS
Act 626 of 1978

141.971-141.981 Expired. 1978, Act 626, Eff. Sept. 30, 1979.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1993-6

141.991 Transfer of powers and duties of the state budget director under the state revenue sharing act and the health and safety fund act from the department of management and budget to the department of treasury by a type III transfer.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, certain functions were created by Act No. 140 of the Public Acts of 1971, being Section 141.901 et seq. of the Michigan Compiled Laws (the "State Revenue Sharing Act of 1971"), to be exercised by the State Budget Director in the Department of Management and Budget; and

WHEREAS, the certain functions were created by Act No. 264 of the Public Acts of 1987, being Section 141.471 et seq. of the Michigan Compiled Laws (the "Health and Safety Fund Act"), to be exercised by the State Budget Director in the Department of Management and Budget; and

WHEREAS, the functions, duties and responsibilities assigned to the State Budget Director under the State Revenue Sharing Act of 1971 and the Health and Safety Fund Act can be more effectively organized and carried out by the State Treasurer; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

(1) All the statutory authority, powers, duties, functions and responsibilities of the State Budget Director under the State Revenue Sharing Act of 1971 and the Health and Safety Fund Act are hereby transferred from the State Budget Director, within the Department of Management and Budget, to the State Treasurer, within the Department of Treasury, by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

(2) The State Treasurer shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

(3) The State Treasurer, as head of the Department of Treasury, shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the State Treasurer, as head of the Department of Treasury, and all prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the State Treasurer as head of the Department of Treasury.

(4) All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Management and Budget for the activities transferred to the Department of Treasury by this Order are hereby transferred to the Department of Treasury.

(5) The State Budget Director and the State Treasurer shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Management and Budget.

(6) All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

(7) Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

History: 1993, E.R.O. No. 1993-6, Eff. Aug. 30, 1993.

FISCAL STABILIZATION ACT
Act 80 of 1981

AN ACT to authorize certain cities and counties to issue bonds or obligations to fund an operating deficit or projected operating deficit; to prescribe the powers and duties of the state administrative board; to provide for the levy of ad valorem property taxes to pay the principal and interest on the bonds or obligations; to prescribe certain conditions related to the bonds or obligations; and to provide remedies for enforcement of this act.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988;—Am. 2010, Act 4, Imd. Eff. Feb. 5, 2010.

The People of the State of Michigan enact:

141.1001 Short title.

Sec. 1. This act shall be known and may be cited as the "fiscal stabilization act".

History: 1981, Act 80, Eff. July 15, 1981.

141.1002 State administrative board; powers and duties; actions of board.

Sec. 2. (1) The state administrative board, referred to in this act as the board, is vested with the following powers and duties relative to this act:

(a) To receive, review, and approve or deny an application by a city or county to issue bonds or obligations under this act.

(b) To call upon the assistance of state agencies or departments for information necessary to perform its functions under this act.

(2) All actions of the board in approving the issuance of bonds or obligations and determining the amount of the issuance shall be approved by a majority of the members of the board. All actions of the board taken pursuant to this act shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988.

141.1003 Cities or counties authorized to borrow money and issue general obligation bonds or obligations to fund operating deficit.

Sec. 3. A city or county that meets the applicable conditions described in section 4 may borrow money and issue its bonds or obligations either for funding an operating deficit for a past fiscal year or years or for funding a projected operating deficit in the current fiscal year, or for funding both. The bonds or obligations may be issued as general obligation bonds or obligations, as bonds or obligations payable solely from a specified source or sources of revenues lawfully available to the city or county, or as a combination of general obligation bonds or obligations and bonds or obligations payable from a specified source or sources of revenues. The authority granted by this act is in addition to any power granted to a city or county by its charter or any other provision of law.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988;—Am. 2010, Act 4, Imd. Eff. Feb. 5, 2010.

141.1004 Application for order approving bonds or obligations; resolution; determination of accumulated operating deficit; conditions and determinations; statement; issuance of order; determinations and findings conclusive; maximum amount of bonds or obligations; exceptions; bonds or obligations not subject to revised municipal finance act; agency financing reporting act applicable.

Sec. 4. (1) Before a city may make application to the board for approval to issue bonds or obligations under this act, the legislative body of the city shall determine by resolution that all of the following conditions exist:

(a) The city had an accumulated operating deficit as of the end of the last completed fiscal year or is projected to have an accumulated operating deficit at the end of the current fiscal year. The determination of the existence of an accumulated operating deficit or a projected accumulated operating deficit shall be made in accordance with generally accepted accounting principles.

(b) The amount of the deficit exceeds the amount that the city may borrow from the emergency municipal loan fund pursuant to the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(c) The amount of the deficit is more than the city can fund by issuing tax anticipation notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Before a county may make application to the board for approval to issue bonds or obligations under this

act, the legislative body of the county shall determine by resolution that the county had an accumulated operating deficit as of the end of the last completed fiscal year or is projected to have an accumulated operating deficit at the end of the current fiscal year. The determination of the existence of an accumulated operating deficit or a projected accumulated operating deficit shall be made in accordance with generally accepted accounting principles.

(3) If the legislative body of a city or county determines that all of the conditions described in subsection (1) or (2) exist, respectively, it shall also in the same resolution make the following determinations:

(a) The amount of the accumulated operating deficit that was incurred or is projected to exist at the end of the current fiscal year.

(b) The maximum amount of bonds or obligations necessary to fund the deficit and provide funds for the purposes described in section 5.

(4) Before adopting a resolution authorizing the issuance of the bonds or obligations, the city or county shall apply to the secretary of the board for an order approving issuance of the bonds or obligations by the city or county and shall attach to the application a copy of the resolution described in this section.

(5) The board shall require that the city or county provide the board with a statement signed by the chief executive officer of the city or county, if a charter county, or the chairperson of the board of county commissioners, which statement indicates how the city or county intends to avoid future deficits. The statement is a condition that shall be met as part of the application by the city or county to the board for issuance of bonds or obligations under this act.

(6) Within 7 days after receipt of a full and complete application as determined by the board, the board shall issue an order approving issuance of bonds or obligations by the city or county in an amount not exceeding the amount determined to be necessary by the legislative body of the city or county under subsection (3) or denying the application.

(7) After approval of the board, the determinations and findings made by the legislative body of the city or county pursuant to this section are conclusive.

(8) The maximum amount of bonds or obligations that are unlimited or limited tax bonds or obligations that may be issued by a city or county under this act shall not exceed 3% of the state equalized valuation of real and personal property located within the territorial boundaries of the city or county, respectively, or the maximum principal amount of all bonds or obligations that may be issued by a city or county under this act shall not exceed $125,000,000.00, or for bonds or obligations issued by a city under this act after January 1, 2010 and before September 1, 2010, the maximum principal amount of all bonds or obligations issued by a city shall not exceed $250,000,000.00. The limitations provided by this subsection do not include bonds or obligations or portions of bonds or obligations used to pay for any of the following:

(a) Amounts set aside for a reserve for payment of principal, interest, and redemption premiums.

(b) Expected costs of issuance of the bonds or obligations.

(c) The amount of any discount.

(d) Bonds or obligations issued to refund outstanding bonds or obligations.

(9) Except as provided in section 7, the issuance of bonds or obligations under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of bonds or obligations described in this subsection is subject to the agency financing reporting act, 2002 PA 470, MCL 129.171 to 129.177.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988;—Am. 2002, Act 444, Imd. Eff. June 17, 2002;—Am. 2010, Act 4, Imd. Eff. Feb. 5, 2010.

141.1005 Bonds or obligations; amounts included.

Sec. 5. Subject to the limitation of section 4(8), the amount of bonds or obligations issued pursuant to this act may include the amount necessary to fund the accumulated operating deficit of the city or county or projected accumulated operating deficit of the city or county as determined pursuant to section 4, a reserve to secure payment of principal or interest on the bonds or obligations in an amount not exceeding the maximum amount of principal and interest becoming due on the bonds or obligations in any fiscal year, a discount of not to exceed 10% of the principal amount of the bonds or obligations, and an amount sufficient to pay all legal, financial, accounting, election, printing, and other expenses related to the issuance of the bonds or obligations.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988.

141.1006 Bonds or obligations; terms and conditions.

Sec. 6. The bonds or obligations may be serial bonds or term bonds or a combination of serial and term bonds, shall mature in not more than 30 years, may bear interest at a rate or rates, may be subject to redemption prior to maturity with or without premium, may be sold in 1 or more series at public or private sale at a discount of not to exceed 10% of the principal amount of the bonds or obligations, and may have other terms and conditions all as determined by resolution of the legislative body of the city or county.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988.

141.1007 Levy of property taxes for payment of principal and interest on bonds or obligations.

Sec. 7. A city or county that issues bonds or obligations that are unlimited or limited tax bonds or obligations under this act shall annually levy sufficient ad valorem property taxes for payment of principal and interest coming due on the bonds or obligations prior to the next collection of taxes as required by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. In determining the amount of the annual levy necessary for the payment of the principal and interest, credit may be taken for other revenues available and pledged for payment of the bonds or obligations. If the bonds or obligations have been approved by a majority vote of the qualified electors of the city or county voting on the question, the levy of taxes for payment of principal and interest on the bonds or obligations is not subject to limitation as to rate or amount, and taxes for the payment of the principal and interest are in addition to all other taxes that the city or county may otherwise be authorized to levy.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988;—Am. 2002, Act 444, Imd. Eff. June 17, 2002.

141.1008 Issuing bonds or obligations as limited tax bonds or obligations; resolution without vote of electors and publication of notice; submitting question to electors; approval or disapproval; prior actions.

Sec. 8. The bonds or obligations may be issued as limited tax bonds or obligations by resolution of the legislative body of the city or county without vote of the electors and without publication of a notice of intent to issue bonds or obligations as required by section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5. The legislative body of a city or county may submit to the electors of the city or county the question of issuing the bonds or obligations authorized by this act. If the question is approved, the bonds or obligations may be issued as unlimited tax bonds or obligations. If the question is not submitted to or approved by the electors, the bonds or obligations may be issued as limited tax bonds or obligations, as bonds or obligations payable solely from a specified source or sources of revenues lawfully available to the city or county, or as a combination of limited tax bonds or obligations and bonds or obligations payable solely from those specified revenue sources. Any actions taken before July 15, 1981 to submit to the electors of a city the question of issuing bonds or obligations similar to the bonds or obligations authorized by this act or the question of pledging the city's unlimited taxing power to bonds or obligations described in this act are ratified and confirmed and are effective with respect to bonds or obligations issued pursuant to this act.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988;—Am. 2010, Act 4, Imd. Eff. Feb. 5, 2010.

141.1009 Bonds or obligations issued before April 11, 1988; bonds or obligations issued after April 11, 1988 and before January 1, 2010; powers of legislative body; agreement providing for direct payment of distributable aid to paying agent, trustee, escrow agent, or other person; lien; special fund; use of taxes; definition.

Sec. 9. (1) All bonds or obligations issued pursuant to this act before April 11, 1988 are subject to the requirements of former 1981 PA 97.

(2) Unless otherwise provided by the city or county in the resolution required by section 4, bonds or obligations issued pursuant to this act on or after April 11, 1988 and before January 1, 2010 are not subject to the requirements of former 1981 PA 97, notwithstanding that distributable aid is pledged or assigned to secure bonds or obligations under this act.

(3) In the resolution authorizing the bonds or obligations, the legislative body of the city or county may provide for appointment of a trustee, escrow agent, or other person to hold funds or reserves for payment of the bonds or obligations and to perform other duties as the city or county determines, may provide for the vesting in the trustee, escrow agent, or other designated person the property, rights, powers, and remedies as the city or county determines, may pledge and create a lien upon any unencumbered revenues or taxes of the city or county, and may provide for payment of pledged revenues or taxes directly to a paying agent, trustee, escrow agent, the state treasurer, or other person to be held and used solely for payment of principal and interest on the bonds or obligations. A pledge pursuant to this act for benefit of bondholders or others is perfected without delivery, recording, or notice. The resolution authorizing the bonds or obligations also may provide for covenants and promises with respect to fiscal, budget, and accounting matters that are considered necessary or appropriate in the judgment of the city or county to sell the bonds or obligations to the best

advantage of the city or county.

(4) In the resolution authorizing the bonds or obligations for the payment of the bonds or obligations, the city or county may provide for the payment of the bonds or obligations with distributable aid received or to be received by the city or county derived from the imposition of taxes by the state and returned or to be returned to the city or county as provided by law except for money that the state constitution of 1963 prohibits for use for such a pledge. The city or county and the state treasurer may enter into an agreement providing for the direct payment of distributable aid to a paying agent, trustee, escrow agent, or other person to be used for the sole purpose of paying principal or interest on bonds or obligations issued pursuant to this act, and that money may be pledged by the city or county for the payment of bonds or obligations issued under this act. If the city or county and the state treasurer enter into such an agreement, notwithstanding any other provision of this act to the contrary, for bonds or obligations issued after the effective date of the 2010 amendatory act that amended this subsection and made payable from distributable aid in the resolution authorizing those bonds or obligations a statutory lien and trust is created applicable to distributable aid received or to be received from the state treasurer by a paying agent, escrow agent, or a trustee, after the distributable aid has been appropriated but subject to any subsequent reduction of that appropriation by operation of law or executive order. The distributable aid paid or to be paid to a paying agent, trustee, escrow agent, or other person for the purpose of paying the principal of and interest on the bonds or obligations issued pursuant to this act shall be subject to a lien and trust, which for bonds or obligations issued pursuant to this act after the effective date of the 2010 amendatory act that amended this subsection and after bonds are issued subject to the statutory lien created by this subsection, is hereby made a statutory lien and trust paramount and superior to all other liens and interests of any kind, for the sole purpose of paying the principal of and interest on bonds and obligations issued pursuant to this act. The lien created under this subsection for the benefit of bondholders or others is perfected without delivery, recording, or notice. The distributable aid held or to be held by a paying agent, trustee, escrow agent, or other person shall be held in trust for the sole benefit of the holders of the bonds or obligations issued pursuant to this act and shall be exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city or county other than for payment of debt service on the bonds or obligations to which the lien applies and the holders of bonds or obligations issued pursuant to this act after January 1, 2010, but before September 1, 2010, shall have a first priority lien that is paramount and superior to all other liens and interests of any kind that arise or are created after the effective date of the 2010 amendatory act that amended this subsection and after bonds are issued subject to the statutory lien created by this subsection. However, nothing in the 2010 amendatory act that amended this subsection shall abridge or reduce the ability of the state treasurer to withhold distributable aid from a city or county as provided by the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. For bonds or obligations issued pursuant to this act after January 1, 2010 and before September 1, 2010, the maximum principal and interest becoming due on the bonds or obligations in any fiscal year shall not exceed the amount of shared revenues received by the city for the state fiscal year ending September 30, 2009 as provided for in the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, and as provided in the state constitution of 1963. This subsection shall not be construed to do any of the following:

(a) Create or constitute state indebtedness.

(b) Require the state to continue to impose and collect taxes from which distributable aid is paid or to make payments of distributable aid.

(c) Limit or prohibit the state from repealing or amending a law enacted for the imposition of taxes from which distributable aid is paid, for the payment or apportionment of distributable aid, or for the manner, time, or amount of distributable aid.

(5) With respect to bonds or obligations issued on or before September 30, 1988, in the resolution authorizing the bonds or obligations, the legislative body of the city or county may provide that, from each collection of ad valorem property taxes after the issuance of the bonds or obligations, there shall be set aside in a special fund, to be used for the payment of principal and interest on the bonds or obligations, an amount equal to the total amount of the collection multiplied by a fraction determined as follows:

(a) The numerator of the fraction is 125% of the amount of principal and interest coming due on the bonds or obligations in the current fiscal year.

(b) The denominator of the fraction is the total amount of the tax levied for the current fiscal year multiplied by a fraction, the numerator of which is the total of the taxes collected during the 5 prior fiscal years and the denominator of which is the total of taxes levied during the 5 prior fiscal years.

(6) An authorizing resolution under subsection (4) or (5) may provide that all or any portion of the taxes collected and set aside as provided in subsection (5) shall not be used for any other purpose.

(7) As used in this section, "distributable aid" means state shared revenues provided for in the Glenn Steil

state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, any other law providing for distribution of state shared revenues which are derived from the same taxes distributed under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, and any law providing reimbursement to a municipality under the state constitution of 1963 as reimbursement for revenue which would otherwise be collected from taxes imposed by the municipality.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988;—Am. 2010, Act 4, Imd. Eff. Feb. 5, 2010.

141.1010 Action to enforce compliance with act.

Sec. 10. An action brought by the board, a city, or a county to enforce compliance with this act shall be brought in the circuit court for the county of Ingham.

History: 1981, Act 80, Eff. July 15, 1981;—Am. 1987, Act 279, Eff. Apr. 11, 1988.

141.1011 Conditional effective date.

Sec. 11. This act shall not take effect unless House Bill No. 4563 of the 81st Legislature is enacted into law.

History: 1981, Act 80, Eff. July 15, 1981.

Compiler's note: House Bill No. 4563, referred to in this section, was approved by the Governor on July 15, 1981, and became P.A. 1981, No. 97, Imd. Eff. July 15, 1981.

MICHIGAN MUNICIPAL DISTRIBUTABLE AID BOND ACT
Act 97 of 1981

141.1021-141.1030 Repealed. 2002, Act 300, Eff. Jan. 1, 2010.

SHARED CREDIT RATING ACT
Act 227 of 1985

AN ACT to create the Michigan municipal bond authority and to prescribe its powers and duties; to provide for the issuance of, and terms and conditions for, notes and bonds of the authority; to authorize certain forms of assistance to governmental units including the creation and management of investments; to impose conditions on, grant certain powers to political subdivisions of this state and water suppliers regarding, and allow certain agreements regarding obligations of this state, political subdivisions of this state, and water suppliers purchased by the authority or assigned to the authority; to exempt the property, income, and operation of the authority, its bonds and notes, and the interest on its bonds and notes from certain taxes; to grant powers and impose duties on officers and agencies of this state, political subdivisions of this state, and water suppliers; to accept and expend certain appropriations; and to repeal acts and parts of acts.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 316, Eff. Sept. 1, 1988;—Am. 1990, Act 281, Imd. Eff. Dec. 13, 1990;—Am. 1996, Act 241, Imd. Eff. June 10, 1996;—Am. 1997, Act 27, Imd. Eff. June 17, 1997;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001;—Am. 2005, Act 93, Imd. Eff. July 20, 2005.

The People of the State of Michigan enact:

141.1051 Legislative findings and declarations.

Sec. 1. The legislature finds and declares the following:

(a) It is in the public interest and it is the policy of the state to foster and promote borrowing of money by governmental units within the state for financing public improvements, for financing community water supplies and noncommunity water supplies, and for financing other municipal purposes from proceeds of bonds or notes issued by those governmental units; to assist those governmental units in fulfilling their needs for those purposes by creation of indebtedness; to provide for the orderly marketing of municipal obligations; and to the extent possible, to encourage continued investor interest in the bonds or notes of those governmental units as sound and preferred securities for investment.

(b) It is in the public interest and it is the policy of this state to encourage governmental units within this state to continue their independent undertakings of public improvements, community water supplies and noncommunity water supplies, and new municipal purposes and the financing for them, and to assist the governmental units by making money available for orderly financing of public improvements, community water supplies and noncommunity water supplies, and other municipal and governmental purposes.

(c) Credit and municipal bond market conditions require the exercise of the powers of this state in the interest of its governmental units to further and implement such policies by authorizing the Michigan municipal bond authority to have full powers to borrow money and to issue its bonds and notes to make money available through the Michigan municipal bond authority at reduced rates or on more favorable terms for borrowing by the state's governmental units through the purchase of the obligations of the governmental units in fully marketable form and by granting broad powers to the Michigan municipal bond authority to accomplish and to carry out these policies of this state that are in the public interest of this state and of its taxpayers and residents.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001.

Compiler's note: For creation of Michigan public educational facilities authority within department of treasury; transfer of certain powers and duties from Michigan strategic fund and Michigan strategic fund board of directors to Michigan public educational facilities authority and Michigan public educational facilities authority board of trustees; transfer of certain powers and duties of Michigan municipal bond authority and Michigan municipal bond authority board of trustees to Michigan public and educational facilities authority and Michigan public education facilities authority board of trustees, see E.R.O. No. 2002-3, compiled at MCL 12.192 of the Michigan Compiled Laws.

For consolidation of administrative staff of Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, and state hospital finance authority, and for transfer of certain functions to state treasurer, see E.R.O. No. 2002-8, compiled at MCL 12.193.

141.1052 Short title.

Sec. 2. This act shall be known and may be cited as the “Shared credit rating act.”

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1053 Definitions.

Sec. 3. As used in this act:

(a) "Authority" means the Michigan municipal bond authority created in section 4.

(b) "Board" means the board of trustees of the authority established in section 5.

(c) "Bonds" means bonds of the authority issued under this act with a maturity greater than 3 years.

(d) "Capitalization grant" means the federal grant made to this state by the United States environmental protection agency for either of the following purposes:

(*i*) For the purpose of establishing a state water pollution control revolving fund, as provided in title VI of the federal water pollution control act, 33 USC 1381 to 1387.

(*ii*) For the purpose of establishing a state drinking water revolving fund, as provided in section 1452 of the public health service act, 42 USC 300j-12.

(e) "Community water supply" means a community water supply as defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(f) "Federal safe drinking water act" means title XIV of the public health service act, chapter 373, 88 Stat. 1660.

(g) "Federal water pollution control act" means 33 USC 1251 to 1387.

(h) "Fully marketable form" means a municipal obligation duly executed and accompanied by all of the following:

(*i*) An approving legal opinion of a bond counsel approved by the authority and of nationally recognized standing in the field of municipal law.

(*ii*) Closing documents in a form and substance satisfactory to the authority. The executed municipal obligation need not be printed or lithographed nor be in more than 1 denomination.

(*iii*) Evidence that the pledge for payment of the municipal obligation will be sufficient to pay the principal of and interest on the municipal obligation when due.

(*iv*) For purposes of a project funded under section 16a, an order of approval issued by the department of environmental quality under part 53 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5301 to 324.5316. The order shall state that the project proposed by the governmental unit has been approved for assistance by the department of environmental quality.

(*v*) For purposes of a community water supply or a noncommunity water supply funded under section 16b, an order of approval issued by the department of environmental quality under part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418. The order shall state that the community water supply or the noncommunity water supply proposed by the governmental unit has been approved for assistance by the department of environmental quality.

(i) "Governmental unit" means this state, a county, city, township, village, school district, intermediate school district, community college, public university, authority, district, any other body corporate and politic or other political subdivision, any agency or instrumentality of the foregoing, or any group self-insurance pool formed pursuant to 1951 PA 35, MCL 124.1 to 124.13. For purposes of a project funded under section 16a, governmental unit includes an Indian tribe that has jurisdiction over construction and operation of a project qualifying under 33 USC 1329. For purposes of a community water supply or a noncommunity water supply funded under section 16b, governmental unit includes a community water supplier. A governmental unit does not include a self-insurance pool unless the self-insurance pool has filed a certification by an independent actuary that the reserves set aside under section 7a of 1951 PA 35, MCL 124.7a, are adequate for the payment of claims. A school district shall include a public school academy established under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852. Funds loaned to a public school academy or a school district may not be used to finance the purchase, construction, lease, or renovation of property owned, directly or indirectly, by any officer, board member, or employee of that public school.

(j) "Municipal obligation" means a bond or note or evidence of debt issued by a governmental unit for a purpose authorized by law. A municipal obligation includes loan repayment obligations from a school district to this state with respect to a qualified loan made under a school loan act that is assigned or otherwise transferred by this state to the authority.

(k) "Noncommunity water supply" means a noncommunity water supply as defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(*l*) "Notes" means an obligation of the authority issued as provided in this act, including commercial paper, with a maturity of 3 years or less.

(m) "Project" means a sewage treatment works project or a nonpoint source project, or both, as defined in part 53 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5301 to 324.5316.

(n) "Reserve fund" means a bond reserve fund or note reserve fund created and established under section 16.

(o) "Revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal obligations and other investments, gifts, grants, contributions, and all other income derived or to be derived by the authority under this act.

(p) "School loan act" means an act to implement section 16 of article IX of the state constitution of 1963, including, but not limited to, 1961 PA 108, MCL 388.951 to 388.963, 1961 PA 112, MCL 388.981 to

388.985, and the school bond qualification, approval, and loan act. For a qualified bond, as defined in 1961 PA 108, MCL 388.951 to 388.963, with a certificate of qualification from the state treasurer issued prior to the effective date of the amendatory act that added this subdivision, "school loan act" means 1961 PA 108, MCL 388.951 to 388.963. For a qualified bond as defined in the school bond qualification, approval, and loan act with a certificate of qualification or approval issued by the state treasurer after the effective date of the school bond qualification, approval, and loan act, school loan act means the school bond qualification, approval, and loan act.

(q) "Water supplier" means a water supplier as defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 270, Imd. Eff. July 15, 1988;—Am. 1988, Act 316, Eff. Sept. 1, 1988;—Am. 1996, Act 241, Imd. Eff. June 10, 1996;—Am. 1997, Act 27, Imd. Eff. June 17, 1997;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001;—Am. 2005, Act 93, Imd. Eff. July 20, 2005.

141.1054 Michigan municipal bond authority; created; powers; funds.

Sec. 4. The Michigan municipal bond authority is created as a body corporate, separate and distinct from the state. The authority may sue and be sued, plead and be impleaded, contract and be contracted with, have a corporate seal, and enjoy and carry out all powers granted it in this act. Funds of the authority shall be handled in the same manner and subject to the same provisions of law applicable to state funds or in such manner as is specified in a resolution of the authority authorizing the issuance of bonds or notes.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1055 Board of trustees; appointment, qualifications, and terms of members; duties; oath; vacancy; organization; rules of procedure; conducting business at public meetings; notice; quorum; action of board; designation of representative.

Sec. 5. (1) The authority shall be governed by a board of trustees consisting of the state treasurer, 2 appointees of the governor to serve at the pleasure of the governor who shall be public officials or employees with expertise in the state's infrastructure needs, and through December 31, 2000, 5 residents of this state to be appointed by the governor with the advice and consent of the senate. Beginning January 1, 2001, the board shall have 4 residents of this state appointed by the governor with the advice and consent of the senate. Of the residents appointed by the governor, 1 shall be appointed from 1 or more nominees of the speaker of the house of representatives and 1 shall be appointed from 1 or more nominees of the majority leader of the senate. A trustee shall serve a term of 3 years. In appointing the initial resident members of the board, the governor shall designate 1 to serve for 3 years, 1 to serve for 2 years, and 2 to serve for 1 year.

(2) Upon appointment, a member of the board shall enter office and exercise the duties of office. A member of the board shall qualify by taking and filing the constitutional oath of office.

(3) Regardless of the cause of a vacancy, the governor shall fill a vacancy in the office of a member of the board by appointment with the advice and consent of the senate. A member of the board shall hold office until a successor has been appointed and has qualified.

(4) The board shall organize and make its own rules of procedure. The board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A majority of the members of the board appointed and serving shall constitute a quorum for the transaction of business. An action of the board shall require a concurring vote by a majority of the members present at the meeting. A state officer who is a member of the board may designate a representative from his or her department to serve instead of that state officer as a member of the board for 1 or more meetings.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001.

141.1056 Chairperson; employment, qualifications, duties, and compensation of personnel; delegation of powers and duties; exercise of powers, duties, and functions; budgeting, procurement, and related functions; costs; report; annual audit.

Sec. 6. (1) The state treasurer is the chairperson of the board. The authority may employ an executive director, legal and technical experts, and other officers, agents, or employees, permanent or temporary. The authority shall determine the qualifications, duties, and compensation of those it employs. The authority may delegate to 1 or more agents or employees any powers or duties as the authority considers proper.

(2) The authority shall be within the department of treasury and shall exercise the authority's prescribed statutory powers, duties, and functions independently of the state treasurer. However, the budgeting, procurement, and related functions of the authority shall be performed under the direction and supervision of

the state treasurer. The costs of providing these and any other departmental services shall be paid for from authority revenues to the extent these services are not otherwise authorized by law.

(3) The authority shall annually make a written report available to the public on its activities. This report shall specify obligations of municipalities it has purchased, the amount of authority obligations outstanding, the amount of authority obligations issued, and a description of each issuance specifying the rate, term, and an analysis of market performance.

(4) The accounts of the authority shall be subject to annual audits by the state auditor general or a certified public accountant appointed by the auditor general.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001.

Compiler's note: For consolidation of administrative staff of Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, and state hospital finance authority, and for transfer of certain functions to state treasurer, see E.R.O. No. 2002-8, compiled at MCL 12.193.

141.1057 Powers of board generally.

Sec. 7. The board has all of the following powers:

(a) To adopt bylaws for the regulation of its affairs.

(b) To adopt an official seal.

(c) To maintain a principal office at a place within this state.

(d) To sue and be sued in its own name and to plead and be impleaded.

(e) To loan money to a governmental unit, or to a nonprofit corporation, trust, or similar entity for the benefit of a public school academy, at a rate or rates as the authority determines and to purchase and sell, and to commit to purchase and sell, municipal obligations pursuant to this act.

(f) To borrow money and issue negotiable revenue bonds and notes pursuant to this act.

(g) To make and enter into contracts and other instruments necessary or incidental to the performance of its duties and the exercise of its powers. By rotating the services of legal counsel, the authority shall seek to increase the pool of nationally recognized bond counsel.

(h) To receive and accept from any source grants or contributions of money, property, or other things of value, excluding appropriations from the general fund of this state except for appropriations to be used for the benefit of public schools, except for appropriations to a reserve fund established under section 16, except for appropriations to the state water pollution control revolving fund established under section 16a and except for appropriations to the state drinking water revolving fund established under section 16b, and except for appropriations to the school loan revolving fund established under section 16c, to be used, held, and applied only for the purposes for which the grants and contributions were made.

(i) To do all acts necessary or convenient to carry out the powers expressly granted.

(j) To require that final actions of the board are entered in the journal for the board and that all writings prepared, owned, used, in the possession of, or retained by the board in the performance of an official function be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(k) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice.

(*l*) To investigate and assess the infrastructure needs of this state, current methods of financing infrastructure rehabilitation and improvements, and resources and financing options currently available and potentially useful to improve this state's infrastructure and lower the costs of those improvements.

(m) To indemnify and procure insurance indemnifying members of the board from personal loss or accountability from liability asserted by a person on bonds or notes of the authority or from any personal liability or accountability by reason of the issuance of the bonds or notes, or by reason of any other action taken or the failure to act by the authority.

(n) To investigate and assess short-term and long-term borrowing requirements for operating, capital improvements, and delinquent taxes.

(o) To provide assistance, as that term is defined in section 5301 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5301, to any municipality for a revolving fund project and to perform all functions necessary or incident to providing that assistance and to the operation of the state water pollution control revolving fund established under section 16a.

(p) To enter into agreements with the federal government to implement the establishment and operation of the state water pollution control revolving fund established under section 16a pursuant to the provisions of the federal water pollution control act and the rules and regulations promulgated under that act.

(q) To provide assistance, as that term is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418, to any governmental unit for a revolving fund community water supply or noncommunity water supply and to perform all functions necessary or incident to providing that assistance and to the operation of the state drinking water revolving fund established under section 16b, including, but not limited to, using funding allocated in the federal safe drinking water act for any of the purposes authorized in section 5417(c) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5417.

(r) To enter into agreements with the federal government to establish and operate the state drinking water revolving fund under section 16b pursuant to the provisions of the federal safe drinking water act and the rules and regulations promulgated under that act.

(s) To enter into agreements with the state treasurer to act as this state's agent to implement the establishment and operation of the school loan revolving fund established under section 16c, including provisions relating to the return to this state of contributions made by this state for deposit in the school loan revolving fund that are no longer needed for school loan revolving fund purposes.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 316, Eff. Sept. 1, 1988;—Am. 1990, Act 281, Imd. Eff. Dec. 13, 1990;—Am. 1996, Act 241, Imd. Eff. June 10, 1996;—Am. 1996, Act 391, Imd. Eff. Oct. 3, 1996;—Am. 1997, Act 27, Imd. Eff. June 17, 1997;—Am. 2000, Act 118, Imd. Eff. May 26, 2000;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001;—Am. 2005, Act 93, Imd. Eff. July 20, 2005.

141.1058 Purchase of municipal obligations by authority; bonds or notes of authority; expenses; preferential treatment in rate of interest; forgiving or relinquishing interest or principal of obligation; purchase of qualified bonds of school district; additional purchase.

Sec. 8. (1) The authority may lend money to a governmental unit through the purchase by the authority of municipal obligations of the governmental unit in fully marketable form. The authority may authorize and issue its bonds or notes payable solely from the revenues or funds available to the authority, and to otherwise assist governmental units.

(2) Bonds and notes of the authority shall not be in any way a debt or liability of this state and shall not create or constitute any indebtedness, liability, or obligations of this state or be or constitute a pledge of the faith and credit of this state but all authority bonds and notes, unless funded or refunded by bonds or notes of the authority, shall be payable solely from revenues or funds pledged or available for their payment as authorized in this act. Each bond and note shall contain on its face a statement to the effect that the authority is obligated to pay the principal of and the interest on the bond or note only from revenues or funds of the authority and that this state is not obligated to pay the principal or interest and that neither the faith and credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on the bond or note.

(3) All expenses incurred in carrying out this act shall be payable solely from revenues or funds provided or to be provided under the provisions of this act, and nothing in this act shall be construed to authorize the authority to incur any indebtedness or liability on behalf of or payable by this state.

(4) Unless approved by a concurrent resolution of the legislature and except as permitted by section 16a, 16b, or 16c, the authority shall not provide preferential treatment in the rate of interest for a particular municipal obligation purchased by the authority that is based upon other than financial and credit considerations and shall not forgive or relinquish all or part of the interest or principal of a particular municipal obligation or of municipal obligations of a particular purpose.

(5) The authority may purchase bonds issued by school districts that are qualified bonds under a school loan act. Except as provided in subsection (6), the principal amount of the qualified bonds purchased by the authority in any calendar year shall not exceed 7.5% of the principal amount of qualified bonds issued by school districts in the immediately preceding calendar year. The authority may also purchase or accept by assignment from this state municipal obligations that are loan repayment obligations from a school district on a qualified loan made by this state under a school loan act. Municipal obligations acquired by the authority under this subsection are not required to be in fully marketable form.

(6) In addition to qualified bonds purchased under subsection (5), the authority may purchase qualified bonds issued by school districts not later than September 30, 2004 to obtain funds to repay all or a portion of the outstanding balance of a loan under 1961 PA 108, MCL 388.951 to 388.963, on the terms and conditions and subject to the requirements provided by or pursuant to a resolution of the authority. Bonds issued by the authority to purchase school district qualified bonds under this subsection shall be issued in an amount sufficient to provide and pay the reasonable costs of issuance incurred by the school districts as determined by or pursuant to a resolution of the authority.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1996, Act 241, Imd. Eff. June 10, 1996;—Am. 1997, Act 27, Imd. Eff. June 17, 1997;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001;—Am. 2003, Act 109, Imd. Eff. July 24, 2003;—Am. 2005, Act 93, Imd. Eff. July 20, 2005.

141.1059 Bonds or notes of authority; purposes; payment; security; authorization; requirements; validity of signature; sale; revised municipal finance act inapplicable; issuance of bonds subject to agency financing reporting act; interest rate exchange agreement.

Sec. 9. (1) The authority may issue from time to time authority bonds or notes in the principal amounts the authority considers necessary to provide funds for any purposes including, but not limited to, the making of loans; the payment, funding, or refunding of the principal of, interest on, or redemption premiums on bonds or notes issued by the authority whether the bonds or notes or interest to be funded or refunded have or have not become due; the establishment or increase of reserves to secure or to pay authority bonds or notes or interest on those bonds or notes; the payment of interest on the bonds or notes for a period as the authority determines; the funding of a state match requirement for a capitalization grant or to reimburse an advance for that state match requirement; and the payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The bonds or notes of the authority shall not be a general obligation of the authority but shall be payable solely from the revenues or funds, or both, pledged to the payment of the principal of and interest on the bonds or notes as provided in the bond or note authorizing resolution. Authority bonds or notes may be additionally secured by a pledge of any grant or contributions from the United States, this state, a governmental unit, or any person, firm, or corporation, or by a pledge of income or revenues, funds, or money of the authority from any source whatsoever.

(3) Bonds or notes of the authority shall be authorized by resolution of the authority and may be issued in 1 or more series and shall bear the date or dates of issuance; mature at the time or times not exceeding 50 years from the date of their issue; provide sinking fund payments; bear interest at a fixed or variable rate or rates of interest per annum or at no interest; be in the denomination or denominations; be in the form, either coupon or registered; carry the conversion or registration privileges; have the rank or priority; be executed in the manner; be payable from the sources in the medium of payment at the place or places within or without this state; and be subject to redemption at the option of the authority or the holder and with the terms and redemption premiums as the resolution provides.

(4) If a member of the board, the executive director of the authority, or an officer of the authority whose signature or facsimile of a signature appears on a note, bond, or coupon ceases to be a member, executive director, or officer before the delivery of that note or bond, the signature shall, nevertheless, be valid and sufficient for all purposes, the same as if the member, executive director, or officer had remained in office until the delivery.

(5) Bonds or notes of the authority may be sold at public or private sale at the time or times, at the price or prices, and at a discount as the authority determines. An authority bond or note is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

(7) For the purpose of more effectively managing its debt service, the authority may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 316, Eff. Sept. 1, 1988;—Am. 2002, Act 386, Imd. Eff. May 30, 2002.

141.1060 Retirement, funding, or refunding of notes.

Sec. 10. The authority may from time to time issue its notes as provided in this act and pay and retire, fund, or refund those notes from proceeds of bonds or of other notes, or from any other funds or money of the authority available or to be made available for that purpose in accordance with a contract between the authority and the holders of the notes. Unless otherwise provided in a contract between the authority and the holders of notes, and unless the notes have been otherwise paid, funded, or refunded, the proceeds of bonds of the authority issued in whole or in part to fund those outstanding notes shall be held, used, and applied by the authority for the payment and retirement of the principal of those notes and the interest due and payable on those notes.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1061 Bonds or notes to refund bonds or notes.

Sec. 11. (1) The authority may provide for the issuance of authority bonds or notes in the amounts the authority considers necessary for the purpose of refunding bonds or notes of the authority then outstanding, including the payment of any redemption premium and interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of these bonds or notes. In the discretion of the authority, the proceeds of bonds or notes issued for the purpose of refunding outstanding bonds or notes may be applied to the purchase or retirement at maturity or redemption of outstanding bonds or notes either on their earliest or subsequent redemption date, and pending such application, may be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date or dates determined by the authority. Pending such application and subject to agreements with noteholders or bondholders, the escrowed proceeds may be invested and reinvested in the manner the authority determines, maturing at the time or times as appropriate to assure the prompt payment of the principal, interest, and redemption premium, if any, on the outstanding bonds or notes to be refunded. After the terms of the escrow have been fully satisfied and carried out, the balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment of the proceeds shall be returned to the authority for use by the authority in any lawful manner.

(2) In the resolution authorizing bonds or notes to refund bonds or notes, the authority may provide that the bonds or notes to be refunded shall be considered paid when there has been deposited in trust money or direct obligations of the United States, obligations the principal of and interest on which are fully guaranteed by the United States, or other obligations secured by the foregoing which will provide payments of principal and interest adequate to pay the principal and interest on the bonds to be refunded as that principal and interest becomes due whether by maturity or prior redemption and that, upon the deposit of the money or obligations, the obligations of the authority to the holders of the bonds or notes to be refunded are terminated except as to the rights to the money or obligations deposited in trust.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1062 Security transactions; authorization and approval.

Sec. 12. (1) The authority may authorize and approve an insurance contract, an agreement for a line of credit, a letter of credit, a commitment to purchase notes or bonds, an agreement to remarket bonds or notes, and any other transaction to provide security to assure timely payment of a bond or note.

(2) The authority may authorize payment from the proceeds of the notes or bonds, or other funds available, of the cost of issuance including, but not limited to, fees for placement, charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or agreements to provide security to assure timely payment of notes or bonds.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1063 Authority of member or executive director as to notes, bonds, and investments.

Sec. 13. Within limitations that are stated in the issuance or authorization resolution of the authority, the authority may authorize a member of the board or the executive director of the authority to do 1 or more of the following:

(a) Sell and deliver, and receive payment for, notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured or are subject to redemption.

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purpose.

(d) Buy notes or bonds so issued and resell those notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(f) Direct the investment of money of the authority that the authority has the power to invest.

(g) Create and manage investments on behalf of governmental units and the state water pollution control revolving fund established under section 16a and the state drinking water revolving fund established under section 16b.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 316, Eff. Sept. 1, 1988;—Am. 1990, Act 281, Imd. Eff. Dec. 13, 1990;—Am. 1996, Act 241, Imd. Eff. June 10, 1996;—Am. 1997, Act 27, Imd. Eff. June 17, 1997.

141.1064 Powers constituting covenants by authority and contracts with holders of bond or note.

Sec. 14. If provided in a resolution of the authority authorizing or relating to the issuance of bonds or notes, and in order to secure the payment of the bonds or notes and in addition to its other powers, the authority shall have all of the following powers which shall constitute covenants by the authority and contracts with the holders of the bond or note:

(a) To pledge to any payment or purpose all or any part of authority revenues or assets to which its right then exists or may thereafter come into existence, and of money derived from the revenues or assets, and of the proceeds of bonds or notes and pledge and assign to the holders of the authority's notes any rights the authority may have in the municipal obligation.

(b) To covenant as to the use and disposition of any and all payments of principal or interest received by the authority on municipal obligations or other investments held by the authority.

(c) To pledge a loan, grant, or contribution from the federal or state government, or a governmental unit.

(d) To covenant as to establishment of, the making of provision for, and the regulation and disposition of reserves or sinking funds.

(e) To covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind.

(f) To covenant as to the issuance of additional bonds or notes or as to limitations on the issuance of additional bonds or notes and on the incurring of other debts by the authority.

(g) To covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of that payment, as to the rank or priority of the bonds or notes with respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes.

(h) To covenant as to the redemption of bonds or notes and privileges of exchange for other bonds or notes of the authority.

(i) To covenant to create or authorize the creation of special funds or money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves, or other purposes, and as to the use and disposition of the money held in the special funds.

(j) To establish the procedure, if any, by which the terms of a contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to the amendment or abrogation, and the manner in which the consent may be given.

(k) To provide for the rights and liabilities, powers, and duties arising upon the breach of a covenant, condition, or obligation, and to prescribe events of default and the terms and conditions upon which any or all of the bonds, notes, or other obligations of the authority shall become or may be declared due and payable before maturity, and the terms and conditions upon which such a declaration and its consequences may be waived.

(*l*) To vest in a trustee within or without the state property, rights, powers, and duties in trust as the authority determines, which may include any or all of the rights, powers, and duties of a trustee appointed by the holders of bonds or notes, and to limit or abrogate the right of the holders of bonds or notes of the authority to appoint a trustee under this act or to limit the rights, powers, and duties of such a trustee.

(m) To limit the rights of the holders of bonds or notes to enforce a pledge or covenant securing bonds or notes.

(n) Any other matters of like or different character, which in any way affect the security of protection of the bonds or notes.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1065 Pledge of revenues or other money; lien of pledge; payment assigned or pledged to authority to be held in trust for payment of principal and interest; payment subject to lien; nature of lien; filing or recordation not required.

Sec. 15. (1) A pledge of revenues or other money made by the authority is valid and binding from the time when the pledge is made. The revenues or other money so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery of the revenues or money or further act. The lien of such a pledge is valid and binding against a party having a claim of any kind in tort, contract, or otherwise against the authority, irrespective of whether that party has notice of the pledge. Neither the resolution, trust indenture, nor any other instrument by which a pledge is created is required to be filed or recorded in order to establish and perfect a lien or security interest in the property so pledged.

(2) The state treasurer or a trustee shall hold the payment under this act that is assigned or pledged to the authority in trust for the payment of principal and interest on the obligation incurred with the authority in a separate account for each municipality. The payment under this act that is assigned or pledged to the authority and held by the state treasurer or a trustee shall be subject to a lien in favor of the authority. That lien shall be a statutory lien, paramount and superior to all other liens for the sole purpose of paying the principal of, and interest on, the obligation incurred with the authority. The payment under this act that is assigned or pledged to the authority under this act shall be exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the governmental unit other than for payment of the obligation incurred with the authority. The lien granted under this act to the authority shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise, against the governmental unit irrespective of whether the parties have notice. Neither the assignment, the pledge, nor any other instrument by which an assignment,

lien, or pledge is created is required to be filed or recorded.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 316, Eff. Sept. 1, 1988.

141.1065a Repealed. 1990, Act 281, Imd. Eff. Dec. 13, 1990.

Compiler's note: The repealed section provided a limitation on outstanding bonds.

141.1066 Reserve funds.

Sec. 16. (1) The authority may create and establish 1 or more special funds as reserve funds. The authority shall pay into each reserve fund money appropriated and made available by this state for the purpose of that reserve fund, proceeds of the sale of bonds or notes to the extent provided in the resolution or resolutions of the authority authorizing the issuance of the bonds or notes, and any other money that may be available to the authority for the purpose of the reserve fund from any other source. Except as provided in the resolution authorizing the issuance of the bonds or notes, money held in a reserve fund is pledged to, and charged with, the payment of the principal of and the interest on those bonds or notes with respect to which that reserve fund is established, as the principal and interest becomes due, and the redemption price or the purchase price of bonds retired by call or purchase as provided in the resolution. Except as may otherwise be provided in the resolution authorizing the bonds or notes, the reserve fund shall be a fund for all the bonds and notes issued pursuant to a particular resolution without distinction or priority of any bond or note over another.

(2) Except as provided in the resolution authorizing the issuance of the bonds or notes, money in a reserve fund shall not be withdrawn from the reserve fund in an amount that would reduce the amount of that reserve fund to less than the requirement established for that reserve fund, except for the purpose of making, with respect to the bonds or notes secured in whole or in part by that reserve fund, payment when due of principal, interest, redemption premiums, and the sinking fund or mandatory redemption payments, if any, with respect to those bonds or notes for the payment of which other money of the authority is not available. Except as provided in the resolution authorizing the issuance of the bonds or notes, income or interest earned by a reserve fund resulting from the investment of that reserve fund or any other money in the reserve fund may be transferred by the authority to other funds or accounts of the authority to the extent the transfer does not reduce the amount of that reserve fund below the requirements for that reserve fund.

(3) Money in a reserve fund may be invested in the same manner as permitted for investment of funds belonging to this state or held in the state treasury or as provided in the resolution authorizing the bonds or notes for which the reserve fund is established.

(4) An amount appropriated to the authority may be accepted, obligated, and used by the authority to fund 1 or more reserve funds to secure bonds or notes issued by the authority to provide funds to make loans authorized by this act or to purchase municipal obligations issued by school districts, pursuant to 1 or more resolutions of the authority that shall identify the reserve fund or funds as being funded, in whole or in part, with appropriated amounts accepted and obligated under this subsection. By resolution, the authority shall establish a reserve fund requirement with respect to each reserve fund established under this subsection. If at any time a reserve fund requirement established under this subsection exceeds the amount in the reserve fund, an officer of the authority designated in the resolution of the authority establishing the reserve fund shall certify to the state treasurer the amount, if any, necessary to restore the reserve fund to the reserve fund requirement. The state treasurer shall inform the state budget director of the amount, if any, necessary to restore the reserve fund to the certified reserve fund requirement. The authority shall include in the resolutions authorizing the issuance of bonds or notes secured by a reserve fund established by the authority under this subsection, or in a separate agreement, provisions determined by the authority to be necessary or appropriate to implement this subsection.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001.

141.1066a State water pollution control revolving fund; establishment; compliance; funding; assistance to governmental unit; loan agreement; determination of eligible projects; maximum amount of municipal obligation; maximum interest rate.

Sec. 16a. The authority shall establish a state water pollution control revolving fund that complies with the requirements and objectives of the federal water pollution control act. The authority may fund the state water pollution control revolving fund through federal grants, revenues of the authority, or through any other means permitted under the federal water pollution control act and the rules promulgated under that act. The authority may provide assistance as that term is defined in the state clean water assistance act to a governmental unit for a project with proceeds of the state water pollution control revolving fund. If the assistance is in the form of a loan, the loan shall be made through a loan agreement in which a governmental unit agrees to make loan repayments to the authority or through the purchase or refinancing of municipal obligations in fully marketable form. Loan agreements with governmental units shall contain appropriate provisions relating to maturity or length of loan, repayment terms, state or local funding requirements, and other provisions as are necessary to comply with the provisions of the federal water pollution control act and any agreements entered into with the federal government for implementation of the federal water pollution control act. Projects eligible for assistance from the state water pollution control revolving fund shall be determined pursuant to the state clean water assistance act. The maximum amount of any municipal obligation purchased with proceeds of the state water pollution control revolving fund and the maximum interest rate on a loan or municipal obligation shall be determined pursuant to the state clean water assistance act.

History: Add. 1988, Act 316, Eff. Sept. 1, 1988.

141.1066b State drinking water revolving fund.

Sec. 16b. The authority shall establish a state drinking water revolving fund that complies with the requirements and objectives of the federal safe drinking water act. The authority shall establish accounts and subaccounts within the state drinking water revolving fund as it determines is necessary or appropriate to operate the state drinking water revolving fund. The accounts and subaccounts may include, but are not limited to, accounts or subaccounts established for any of the purposes authorized in section 5417(c) of part 54 (safe drinking water assistance) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5417. At the close of a fiscal year, money in an account or subaccount established under this section shall remain in the account or subaccount, shall not lapse to the general fund, and shall be carried forward to the following year as permitted in the federal safe drinking water act. The authority may fund the state drinking water revolving fund through federal grants, revenues of the authority, or through any other means permitted under the federal safe drinking water act and the rules promulgated under that act. The authority may provide assistance as that term is defined in part 54 (safe drinking water assistance) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418, to a governmental unit for a community water supply or a noncommunity water supply with proceeds of the state drinking water revolving fund. If the assistance is in the form of a loan, the loan shall be made through a loan agreement in which a governmental unit agrees to make loan repayments to the authority or through the purchase or refinancing of municipal obligations in fully marketable form. Loan agreements with governmental units shall contain appropriate provisions relating to maturity or length of loan, repayment terms, state or local funding requirements, and other provisions as are necessary to comply with the provisions of the federal safe drinking water act and any agreements entered into with the federal government for implementation of the federal safe drinking water act. Community water supplies and noncommunity water supplies eligible for assistance from the state drinking water revolving fund shall be determined pursuant to part 54 (safe drinking water assistance) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418. The maximum amount of any municipal obligation purchased with proceeds of the state drinking water revolving fund and the maximum interest rate on a loan or municipal obligation shall be determined pursuant to part 54 (safe drinking water assistance) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

History: Add. 1997, Act 27, Imd. Eff. June 17, 1997.

141.1066c School loan revolving fund.

Sec. 16c. The authority shall establish a school loan revolving fund and shall establish accounts and subaccounts with the school loan revolving fund as it determines is necessary or appropriate to operate the school loan revolving fund. The authority may fund the school loan revolving fund with proceeds of bonds or notes issued by the authority, revenues of the authority, contributions from this state including contributions resulting from the assignment of the right to receive loan repayments on qualified loans made or authorized by this state under a school loan act, or repayments of loans made from the school loan revolving fund. Funds deposited in the school loan revolving fund may be used only by the authority to make qualified loans to school districts at the times and in the amounts approved by this state under the provisions of a school loan act, for the purpose of funding a reserve fund established by the authority, for the purpose of securing bonds or notes issued by the authority to provide funds for the school loan revolving fund, for the purpose of acting as a surety for the payment of bonds or notes that provide direct or indirect state sponsorship or support to a school district, and for the purpose of paying the costs of the authority to administer the fund. Loans to school districts from the school loan revolving fund with respect to qualified bonds as defined in a school loan act shall be treated as state loans as described in section 16 of article IX of the state constitution of 1963.

History: Add. 2005, Act 93, Imd. Eff. July 20, 2005.

141.1066d Grant agreements entered under MCL 324.5204a.

Sec. 16d. (1) In addition to any other authority granted under law, each governmental unit may enter into grant agreements under section 5204a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5204a, and may pledge its limited taxing power as security for any repayment obligation of the governmental unit. The grant agreements are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Repayment obligations of a governmental unit under a grant agreement are not a general obligation or debt of the governmental unit within the meaning of any constitutional or statutory debt limitation and are not subject to any notice or referendum requirement.

(2) Grant agreements under section 5204a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5204a, may be entered into by the authority and are not required to be in fully marketable form.

History: Add. 2005, Act 252, Imd. Eff. Dec. 1, 2005.

141.1067 Default or noncompliance by authority.

Sec. 17. (1) If the authority defaults in the payment of principal of or interest on an issue of bonds or notes issued under this act after the bonds or notes become due, whether at maturity or upon call for redemption, or in the event that the authority fails or refuses to comply with the provisions of this act or defaults in an agreement made with the holders of an issue of bonds or notes, the holders of 51% or more in aggregate principal amount of the notes or bonds of that issue then outstanding, by instrument or instruments filed in the Ingham county clerk's office, may appoint, subject to agreement as contained in the resolution of the authority authorizing such bonds or notes, a trustee to represent the holders of those notes or bonds for the purposes provided in this section.

(2) The trustee may, and upon written request of the holders of 51% or more in aggregate principal amount of the notes or bonds of that issue then outstanding shall, in the trustee's own name do all of the following:

(a) By mandamus or other suit, action, or proceeding at law or in equity, enforce the rights of the bondholders or noteholders, and require the authority to carry out any other agreements with the holders of those notes or bonds and to perform the authority's duties under this act.

(b) Bring suit upon the notes or bonds.

(c) By action or suit, require the authority to account as if it were the trustee of an express trust for the holders of the notes or bonds.

(d) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the notes or bonds.

(e) If so provided in the resolution authorizing the bonds or notes, declare the notes or bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of 51% or more of the aggregate principal amount of those notes or bonds then outstanding, to annul that declaration and its consequences.

(3) In addition to the provisions of subsection (2), the trustee has all of the powers necessary or appropriate for the exercise of any function specifically set forth in this section or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

(4) Before declaring the principal of notes or bonds due and payable, the trustee shall give 30 days' notice in writing to the governor, to the authority, to the state treasurer, and to the attorney general.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 316, Eff. Sept. 1, 1988.

141.1068 Liability on bonds or notes.

Sec. 18. Neither the members of the authority nor any person executing bonds or notes issued under this act shall be liable personally on the bonds or notes by reason of their issuance.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1069 Purchasing, holding, canceling, or reselling bonds or notes of authority.

Sec. 19. The authority may purchase bonds or notes of the authority out of funds or money of the authority available for that purpose. The authority may hold, cancel, or resell authority bonds or notes subject to or in accordance with an agreement with holders of authority bonds or notes.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1070 State pledge to and agreement with holders of bonds or notes.

Sec. 20. This state pledges to and agrees with the holders of bonds or notes issued under this act that this state shall not limit or restrict the rights vested in the authority by this act to do any 1 or more of the following:

(a) Purchase, acquire, hold, sell, or dispose of municipal obligations or other investments.

(b) Make loans to a governmental unit.

(c) Establish and collect fees or other charges as are convenient or necessary to produce sufficient revenues to meet the expenses of operation of the authority.

(d) Fulfill the terms of an agreement made with the holders of authority bonds or notes, or in any way impair the rights or remedies of the holders of authority bonds or notes until the bonds and notes, together with interest on the bonds or notes and interest on any unpaid installments of interest, and all costs and expenses in connection with an action or proceedings by or on behalf of those holders are fully met, paid, and discharged.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 316, Eff. Sept. 1, 1988;—Am. 2000, Act 416, Imd. Eff. Jan. 8, 2001.

141.1071 Investment of sinking fund, money, or other fund by banking business, insurance business, or fiduciary in bonds or notes; bonds or notes as security for public deposits.

Sec. 21. Notwithstanding any restriction contained in any other law, the state and a public officer, governmental unit, or agencies of the state or governmental unit; a bank, trust company, savings bank and institution, savings and loan association, investment company, or other person carrying on a banking business; an insurance company, insurance association, or other person carrying on an insurance business; or an executor, administrator, guardian, trustee, or other fiduciary may legally invest a sinking fund, money, or other fund belonging to them or within their control in bonds or notes issued under this act, and authority bonds or notes shall be authorized security for public deposits.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1072 Property and income of authority; public property; public purpose; exemptions from taxes and special assessments.

Sec. 22. Property of the authority is public property devoted to an essential public and governmental function and purpose. Income of the authority is considered to be for a public purpose. The property of the authority and its income and operation are exempt from all taxes and special assessments of the state or a subdivision of the state. Bonds or notes issued by the authority, and the interest on and income from those bonds and notes, is exempt from all taxation of the state or a subdivision of the state.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1073 Municipal obligations generally.

Sec. 23. (1) A governmental unit may borrow money and issue municipal obligations in accordance with the laws of this state. The security for municipal obligations shall be that provided by the laws authorizing their issuance. In addition, a governmental unit may pledge for the payment of a municipal obligation purchased by the authority the municipality's full faith and credit as determined by its governing body. In addition, the authority may require a governmental unit to pledge, and the governmental unit may pledge, for the payment of the municipal obligation purchased by the authority money received or to be received by the governmental unit whether derived from imposition of taxes by the state or from other sources and returned or to be returned to the governmental unit as provided by law except for money the use of which is prohibited for such purposes by the state constitution of 1963. The authority and a governmental unit may enter into an agreement providing for the payment of taxes, which taxes are collected by the state and returned to the governmental unit as provided by law, to the authority or to a trustee, and those taxes may be pledged by the governmental unit for the payment of the municipal obligations of the governmental unit purchased by the authority. If the authority and the governmental unit enter into such an agreement, the state treasurer shall pay the pledged money in accordance with the provisions of the agreement.

(2) Notwithstanding the provisions of a charter or statute applicable to or constituting a limitation on the maximum rate of interest per annum payable on bonds or notes, or as to annual interest cost of money borrowed or received upon issuance of bonds or notes, a governmental unit may contract to pay no interest or interest which may be a variable rate on money borrowed from the authority and evidenced by the municipal obligations of that governmental unit purchased by the authority. A governmental unit may contract with the authority with respect to the loan or purchase. The contract shall contain the terms and conditions of the loan or purchase. The contract may also provide for agreements by the governmental unit with respect to the governmental unit's fiscal, budget, debt and cash management, and accounting matters as the authority requests.

(3) A governmental unit may pay fees and charges required to be paid to the authority for the authority's services.

(4) Notwithstanding the provisions of a law or statute applicable to or constituting a limitation on the sale of municipal obligations, a governmental unit may sell municipal obligations to the authority without

limitation as to denomination, and the municipal obligations may be fully registered, registrable as to principal, or in bearer form; may bear interest at the rate or rates all in accordance with the provisions of this section; may be evidenced in the manner; may contain other provisions not inconsistent with this act; and may be sold to the authority without advertisement at private negotiated sale at par or at a discount and accrued interest as shall be provided in the proceedings of the governing body of the governmental unit pursuant to which the municipal obligations are authorized to be issued.

(5) Any provision of this act allowing a governmental unit to pledge its full faith and credit for payment of the principal of and interest on municipal obligations purchased by the authority does not grant any additional authority, beyond that granted by other statute or by charter, for that governmental unit to pledge its full faith and credit without a vote of the people.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1987, Act 280, Eff. Apr. 11, 1988;—Am. 1988, Act 316, Eff. Sept. 1, 1988.

141.1074 Agreement by governmental unit upon sale or issuance of municipal obligations; additional powers of authority.

Sec. 24. (1) Upon the sale and issuance of municipal obligations to the authority by a governmental unit, that governmental unit shall be held and considered to have agreed to all of the following if the governmental unit fails to pay the interest on or the principal of the municipal obligations held or owned by the authority as and when due and payable:

(a) That the governmental unit waives all and any defenses to the nonpayment and the authority upon the nonpayment shall constitute a holder or owner of the municipal obligations as being in default.

(b) That, notwithstanding the provisions of any other law as to time or duration of default or percentage of holders or owners of municipal obligations entitled to exercise rights of holders or owners of municipal obligations in default, or entitled to invoke any remedies or powers of holders or owners of or of a trustee in connection with or of a board, body, agency, or commission of the state having jurisdiction in the matter or circumstances of municipal obligations in default, the authority may immediately avail itself of all other remedies, rights, and provisions of law applicable in such a circumstance.

(c) That the failure to exercise or exert any rights or remedies within any time or period provided by law shall not be raised as a defense by that governmental unit.

(d) That all of the obligations of the issue of municipal obligations of that governmental unit as to which there has been such a nonpayment shall for all of the purposes of this section be held and considered to have become due and payable and to be unpaid.

(2) The authority may carry out the provisions of this section and exercise all of the rights and remedies and provisions of law provided or referred to in this section.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1075 Construction of act.

Sec. 25. (1) This act shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authority for the performance of each and every act and thing authorized by this act and all powers granted shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

(2) This act shall be construed liberally to assure compliance with the federal water pollution control act and with any applicable rules promulgated under that act, and with the federal safe drinking water act and with any applicable rules promulgated under that act.

History: 1985, Act 227, Eff. Mar. 31, 1986;—Am. 1988, Act 316, Eff. Sept. 1, 1988;—Am. 1997, Act 27, Imd. Eff. June 17, 1997.

141.1076 Severability.

Sec. 26. If a section, subsection, subdivision, clause, or provision of this act is adjudged unconstitutional or is ineffective, the remainder of this act shall be valid and effective. Any other section, subsection, subdivision, clause, or provision of this act shall not on account of that judgment be considered invalid or ineffective and the inapplicability or invalidity of a section, subsection, subdivision, clause, or provision of this act in 1 or more instances or under 1 or more circumstances shall not be taken to affect or prejudice in any way its applicability or validity in any other instance or under any other circumstance.

History: 1985, Act 227, Eff. Mar. 31, 1986.

141.1077 Repealed. 2000, Act 416, Imd. Eff. Jan. 8, 2001.

Compiler's note: The repealed section pertained to the issuance of new bonds or notes after December 31, 2000.

141.1078 Repealed. 1996, Act 241, Imd. Eff. June 10, 1996.

Compiler's note: The repealed section pertained to contracts to invest governmental unit's money.

LOCAL GOVERNMENT FISCAL RESPONSIBILITY ACT
Act 101 of 1988

141.1101-141.1118 Repealed. 1990, Act 72, Imd. Eff. May 15, 1990.

CITY UTILITY USERS TAX ACT
Act 100 of 1990

AN ACT to permit the imposition, revival, and continued collection by cities of a population of 750,000 or more of a utility users tax; to provide the procedure for, and to require the adoption of a prescribed uniform city utility users tax ordinance by cities desiring to impose and collect such a tax; to limit the rate of such tax; to prescribe the powers and duties of the state commissioner of revenue; and to provide for appeals.

History: 1990, Act 100, Imd. Eff. June 13, 1990;—Am. 1998, Act 548, Imd. Eff. Jan. 20, 1999.

The People of the State of Michigan enact:

CHAPTER 1

CITY UTILITY USERS TAX

141.1151 Short title.

Sec. 1. This act shall be known and may be cited as the "city utility users tax act".

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1152 Uniform city utility users tax ordinance; authorization; adoption; rescission; amendment; notice; report; placement of revenue in police department budget; "police officer" defined.

Sec. 2. (1) The governing body of a city having a population of 750,000 or more, by a lawfully adopted ordinance that incorporates by reference the uniform city utility users tax ordinance set forth in chapter 2, may levy, assess, and collect from those users in that city a utility users tax as provided in the ordinance. However, a uniform city utility users tax ordinance containing substantially the same provisions provided for in chapter 2 adopted by the governing body of a city before June 13, 1990 that has not been rescinded by that governing body is considered an ordinance adopted under this act and a tax imposed and collected under that ordinance is revived. The governing body shall set the rate of tax in increments of 1/4 of 1% that shall not exceed 5%.

(2) A uniform city utility users tax ordinance may be lawfully adopted or rescinded by the governing body at any time and its adoption shall become effective on the first day of any month, following adoption of the ordinance, as specified in the ordinance. The ordinance may be rescinded at any time by the governing body in the same manner in which the ordinance was adopted and with appropriate enforcement, collection, and refund provisions with respect to liabilities incurred before the effective date of its rescission. The ordinance shall not be amended except as provided by the legislature. A village and a city under 750,000 population shall not impose and collect a utility users tax. A city that adopts or rescinds the tax shall notify within 7 days by certified mail all public utilities or resale customers affected by the action of the governing body. Except as otherwise provided in this section, a city now having or that may attain a population of 750,000 or more shall not impose a utility users tax except by adopting the entire uniform city utility users tax ordinance as set forth in chapter 2.

(3) The administrator, as that term is defined in chapter 2, of the tax shall file a report indicating the total amount of revenue collected in the prior fiscal year with the state revenue commissioner by August 1 of each year, beginning on August 1, 1985. The administrator shall make the report available to the public at the same time.

(4) The revenue generated from this tax shall be placed directly in the budget of the police department of a city described in this act and shall be used exclusively to retain or hire police officers.

(5) As used in this section, "police officer" means a police officer, investigator, or police sergeant.

History: 1990, Act 100, Imd. Eff. June 13, 1990;—Am. 1998, Act 548, Imd. Eff. Jan. 20, 1999;—Am. 2005, Act 197, Imd. Eff. Nov. 9, 2005.

141.1153 Uniform rules governing appeal.

Sec. 3. The state commissioner of revenue shall publish uniform rules in accordance with and subject to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, governing the form and manner of appeal from a final determination by a city affecting a utility, resale customer, utility user, or other person and purporting to be made under or in administration of the uniform city utility users tax ordinance. The rules shall provide for at least 30 days after notice of a final assessment, denial of claim for refund, or special ruling in which the appeal may be filed. They shall provide to the utility, resale customer, utility user, or other person or his or her duly authorized representative and to the city an opportunity to present evidence and argument and to examine witnesses relating to the matter under appeal.

Promptly after completion of the hearing, the commissioner shall affirm, reverse or modify by written order the action of the city which is the subject matter of the appeal, and shall furnish a copy of his or her order and opinion thereon to the utility, resale customer, utility user, or other person and to the duly authorized official of the city.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1154 Compliance with order; grievance; appeal; recovery; payment.

Sec. 4. (1) The parties, within 30 days after receipt of the order of the state commissioner of revenue, shall fully comply with all directions and requirements of the order unless theretofore excused therefrom during or as a result of a final determination pursuant to an appeal from the order of the commissioner as hereinafter provided. If the utility, resale customer, utility user, or other person or the city is aggrieved by any such order of the commissioner, he or she may appeal within 90 days after receipt of notice of the order to the circuit court for the county in which the taxing jurisdiction is located.

(2) If a utility, resale customer, utility user, or other person, as the result of an appeal, is found entitled to recover any sums paid, they shall be paid from the general fund of the city. The city shall promptly and uniformly comply with a final order upon appeal hereunder affecting the interpretation, administration, or application of the ordinance.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1155 Applicability; exemption; qualified start-up business.

Sec. 5. (1) The uniform city utility users tax ordinance does not apply to a person or corporation as to whom or which it is beyond the power of the city to impose the tax provided for in the uniform city utility users tax ordinance.

(2) For tax years beginning after December 31, 1996, a person or corporation, except a casino, is exempt from the tax imposed under this ordinance for public utility services provided in a renaissance zone to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

(3) For tax years beginning after December 31, 2004, a qualified start-up business is exempt from the tax imposed under this ordinance for the 12-month period beginning November 1 for each tax year in which all of the following occur:

(a) The qualified start-up business applies for the exemption as provided in subsection (4).

(b) The governing body of the city adopts a resolution approving the exemption as provided in subsection (5).

(4) A qualified start-up business may claim the exemption under subsection (3) by filing an exemption affidavit claiming the exemption with the treasurer of the city that imposes the tax under this ordinance on a form prescribed by the city. The affidavit under this subsection shall be filed on or before September 1 of each year that a taxpayer claims the exemption under subsection (3) and shall include all of the following:

(a) A statement that the qualified start-up business was eligible for and claimed the credit allowed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, in the tax year that ended immediately before the November 1 in which the exemption under subsection (3) will be claimed.

(b) A copy of the qualified start-up business's annual return required under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the year in which the credit was claimed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, upon which the exemption under subsection (3) is based.

(c) A statement authorizing the department of treasury to release information contained in the qualified start-up business's annual return filed under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, that pertains to the qualified start-up business credit claimed under section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415, upon which an exemption under subsection (3) is based to the city.

(5) An exemption under subsection (3) is not allowed unless the governing body of the city that collects the tax under this act adopts a resolution approving the exemption. Exemptions under subsection (3) shall be approved at the last official meeting of the governing body of the city in September of each year. The resolution adopted by the governing body of the city may approve the exemption provided in subsection (3)

for 1 or more of the qualified start-up businesses that claim the exemption under subsection (3) by filing an affidavit on or before September 1 as provided in subsection (4).

(6) A qualified start-up business shall not receive the exemption under subsection (3) for more than a total of 5 tax years. A qualified start-up business may receive the exemption under subsection (3) in nonconsecutive tax years.

(7) As used in this section, "qualified start-up business" means that term as defined in section 31a of the single business tax act, 1975 PA 228, MCL 208.31a, or section 415 of the Michigan business tax act, 2007 PA 36, MCL 208.1415.

History: 1990, Act 100, Imd. Eff. June 13, 1990;—Am. 1996, Act 455, Imd. Eff. Dec. 19, 1996;—Am. 1998, Act 241, Imd. Eff. July 3, 1998;—Am. 2004, Act 322, Imd. Eff. Aug. 27, 2004;—Am. 2007, Act 175, Imd. Eff. Dec. 21, 2007.

141.1156 Ordinance set forth in chapter 2.

Sec. 6. The uniform city utility users tax ordinance is as set forth in chapter 2.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1157 Retroactive application.

Sec. 7. This act shall be applied retroactively beginning July 1, 1988. The authority of a city to impose, collect, and enforce a utility users tax prior to and up to the date this act is signed into law is validated and ratified.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1158 Legislative intent.

Sec. 8. This act is intended to eliminate the confusion surrounding the legal status of Act No. 198 of the Public Acts of 1970 resulting from an opinion of the attorney general regarding the validity of enactment of various public acts, OAG, 1987-1988, No 6438, p 80 (May 21, 1987) and a circuit court decision in the matter of Ace Tex Corp v Detroit rendered on February 2, 1990 (Wayne County Circuit Court Case No. 88-807858-CZ), as to which an appeal is pending, and to resolve legislatively the issues raised by the appeal. Before that circuit court decision, the legislature had been advised by the attorney general's office in May 1987 that legislative action was not necessary to authorize the collection of the city utility users tax after July 1, 1988 under Act No. 198 of the Public Acts of 1970. In light of the circuit court decision of February 2, 1990, which is presently on appeal, it appears that legislative action is advisable to clarify the authorization for and to ratify the collection of the tax from July 1, 1988, to authorize the continued collection of the tax, and to resolve legislatively the issues raised by appeal. The legislature by enactment of this act intends to validate, ratify, and revive effective from July 1, 1988 a city utility users tax. This act is remedial and curative and is intended to revive and assure an uninterrupted continuation of the authority to collect a city utility users tax. The legislature finds the city utility users tax was authorized by law on the date when section 31 of article IX of the state constitution of 1963 was ratified.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

CHAPTER 2

UNIFORM CITY UTILITY USERS TAX ORDINANCE

141.1161 Short title.

Sec. 1. This ordinance shall be known and may be cited as the “uniform city utility users tax ordinance”.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1162 Definitions.

Sec. 2. For the purposes of this ordinance:

(1) The words, terms and phrases set forth below and their derivations have the meanings given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. “Shall” is always mandatory and not merely directory. “May” is always directory.

(2) “Administrator” means the official designated by the city to administer the provisions of this ordinance.

(3) “Billed or ordinarily billable to locations within the taxing city” means the location of the premises of the user for the usage of the public utility services.

(4) “Month” means a calendar month.

(5) “Person” means a natural person, partnership, fiduciary, association, corporation, or other entity. When used in any provision imposing a criminal penalty, “person” as applied to an association means the parties or members thereof, and as applied to a corporation, the officers thereof.

(6) “Public utility services” means the providing, performing or rendering of public service of a telephone, electric, steam, or gas nature, the rates or other charges for which are subjected to regulation by state public utility regulatory bodies, federal public utility or regulatory bodies or both, or the rendering of public service of an electric or gas nature by a government owned facility.

(7) “Public utility” means a person who provides public utility services.

(8) “Resale customer” means a person that purchases utility services or property from a public utility for resale to a utility user.

(9) “Utility user” or “user” means a person required to pay a tax imposed under the provisions of this ordinance.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1163 Imposition of city utility users tax; rate; measurement.

Sec. 3. Subject to the exclusions, adjustments, and exemptions herein provided, a city utility users tax at the rate of ......% for general revenue purposes is hereby imposed on and shall be paid by the utility user. This tax shall be measured by the amounts paid, not including any existing or hereafter enacted taxes (including, but not limited to federal, state, city, and other local taxes, directly added to or directly passed on in the users' billing) paid by users for the public utility services as hereinafter provided, billed or ordinarily billable to locations within the taxing city:

(a) The tax shall be imposed on all intrastate telephone communication services, furnished by a public utility. The term “intrastate telephone communication services” shall not include any telephone service originating or terminating outside Michigan, telephone services by coin-operated installations, directory advertising proceeds, telephone services not taxable under section 4251 of Title 26 of the United States Code as of December 31, 1969, as amended, centrex and multi-line key switching systems, mobile telephone service, and any types of services or equipment, furnished by telephone companies subject to public utility regulation, during any period in which such services or equipment are in competition with services or equipment furnished by or available from persons other than telephone companies subject to public utility regulation.

(b) The tax shall be on all electrical energy and steam provided by a public utility or a resale customer. The term “electrical energy and steam provided” shall include amounts paid for metered energy and steam, and minimum charges for service, including user charges, service charges, demand charges, standby charges, and annual and monthly charges. The term shall not include electrical energy or steam sold to or exchanged with for resale by, another public utility, or used or consumed in the conduct of the business of an electric or steam public utility or a combination gas and electric utility.

(c) The tax shall be on all gas, natural or artificial provided by a public utility or a resale customer. The term “gas, natural or artificial provided” shall not include any gas sold for use in the generation of electrical energy by a public utility, any gas sold to or exchanged with for resale by, another gas public utility, or any gas used or consumed in the conduct of the business of a gas public utility or a combination gas and electric utility.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1164 Billing; tax as debt; delinquency; remittance; filing annual return.

Sec. 4. (1) The taxes imposed under this ordinance shall be billed by the public utility or resale customer as provided in section 3 herein, and they may imprint upon the face of the bill the amount of the tax and the name of the taxing city, commencing with the first regular billing period applicable to that person which starts on or after the date this ordinance is made operative for the taxing city, and shall be paid by the user along with the amounts billed for public utility services furnished.

(2) Any tax required to be paid by a user under this ordinance shall be deemed a debt owed by the user to the taxing city, and deemed delinquent from the time due until paid.

(3) Subject to extensions which may be granted for good cause shown, and to a utility collection fee of 1% of the tax amounts involved, all tax amounts under this ordinance billed by the public utility or resale customer in a given month shall be remitted to the taxing city on or before the last day of the following month, along with a return in such form as may be prescribed by the taxing city, showing such information as may be necessary for the proper administration of this ordinance provided that tax amounts based on billings shall be subject to adjustment for tax moneys not actually collected by the public utility or resale customer. Any such tax amounts not so remitted shall be deemed delinquent. An annual return for each year shall be filed by the public utility and resale customer on or before the end of the fourth month following the end of the tax year.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1165 Rules relating to administration and enforcement; adoption, amendment, and repeal; collection and disposition of taxes and payments; special ruling; examination of books, papers, and records.

Sec. 5. (1) The administrator may adopt, amend and repeal rules relating to the administration and enforcement of this ordinance, but not in conflict with the ordinance, subject to the approval of the city governing body. The rules, amendments and repeals, after approval by the city governing body, shall become effective upon being published in the official newspaper of the city.

(2) The administrator shall enforce this ordinance and the rules. The administrator shall prepare, adopt and make available to taxpayers and other persons all forms necessary for compliance with this ordinance.

(3) The city treasurer shall collect all taxes and payments due under this ordinance and deposit them in a designated city depository.

(4) A taxpayer, public utility, or resale customer desiring a special ruling on a matter pertaining to this ordinance or rules shall submit in writing to the administrator all the facts involved and the ruling sought. A taxpayer, public utility, or resale customer, aggrieved by a special ruling may appeal as provided in section 14.

(5) The administrator or his or her duly authorized agent may examine the books, papers and records of any person, public utility, resale customer, taxpayer or his or her agent or representative, for the purpose of verifying the accuracy and completeness of a return filed, or, if no return was filed, to ascertain the tax, penalties or interest due under this ordinance.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1166 Confidentiality; violation; penalties.

Sec. 6. (1) Information gained by the administrator, or any other city official, agent, or employee as a result of a return, investigation, hearing or verification required or authorized by this ordinance is confidential, except for official purposes in connection with the administration of the ordinance and except in accordance with a proper judicial order.

(2) Any person who divulges this confidential information, except for official purposes, is guilty of a violation of this ordinance and subject to a fine not exceeding $500.00 or imprisonment for a period not exceeding 90 days, or both, for each offense. In addition, an employee of the city who divulges this confidential information is subject to discharge for misconduct.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1167 Examinations and investigation; furnishing means, facilities, and opportunity; ordering personal appearance for examination; refuse to submit to examination or investigation; violation; penalties.

Sec. 7. (1) A person shall furnish, within 10 days following a request of the administrator or his or her duly authorized agent, the means, facilities, and opportunity for making such reasonable examinations and investigations as are authorized by this ordinance, and shall present himself or herself for examination under oath when so ordered by the administrator. The request or order of the administrator or his or her duly authorized agent may be made verbally unless the person requests that the request or order be addressed to him or her in writing.

(2) Refusal by any person to submit to such examination or investigation, when requested or ordered by the administrator, is a violation of this ordinance, punishable by such penalties as are provided in the ordinance.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1168 Delinquent tax amounts; interest and penalties.

Sec. 8. (1) All delinquent tax amounts shall be subject to interest from the due date at the rate of 1/2 of 1% per month or fraction thereof until paid.

(2) A user failing to pay the tax, or any public utility or resale customer failing to remit moneys billed and due the city, when due, or file a return when due, is liable, in addition to the interest, to a penalty of 1% of the amount of the unpaid tax, or moneys unremitted, for each month or fraction thereof, not to exceed a total penalty of 25% of the unpaid tax. The administrator may abate the penalty or a part thereof for just cause. If the total interest or interest and penalty to be assessed is less than $2.00, the administrator, in lieu thereof, may assess a penalty in the amount of $2.00. Interest, interest and penalty, or the minimum charge shall be computed separately for each month or billing period.

(3) Interest and penalties applicable to users shall not be subject to public utility or resale customer billing procedures but shall be recovered only by the taxing city directly from users.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1169 Failure to remit tax moneys received from users; issuance and service of proposed assessment; proof of mailing; written protest.

Sec. 9. (1) If the administrator determines that a user has failed to pay the full amount of the tax due under this ordinance, the administrator may, or if he or she determines that a public utility or resale customer has failed to remit the amount of tax moneys received from users, and due the city, the administrator shall issue a proposed assessment showing the amount due and unpaid, together with interest and penalties that may have accrued thereon. The proposed assessment shall be served upon the user, public utility, or resale customer in person, or by mailing by registered or certified mail to his or her last known address. Proof of mailing the proposed assessment is prima facie evidence of a receipt thereof by the addressee.

(2) A user, public utility, or resale customer has 30 days after receipt of a proposed assessment within which to file a written protest with the administrator, who shall then give the user, public utility, or resale customer or his or her duly authorized representative an opportunity to be heard and present evidence and arguments in his or her behalf.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1170 Hearing; final assessment; proof of mailing; effect of not filing protest.

Sec. 10. (1) After the hearing the administrator shall issue a final assessment setting forth the total amount found due in the proposed assessment and any adjustment he or she may have made as a result of the protest. The final assessment shall be served in the same manner as a proposed assessment. Proof of mailing of the final assessment is prima facie evidence of a receipt thereof by the addressee.

(2) If a protest is not filed in respect to a proposed assessment, a user, public utility, or resale customer is deemed to have received a final assessment 30 days after receipt of the proposed assessment.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1171 Refusal to pay tax due; obligation to rebill; issuance of proposed or final assessment; demand for payment; recovery in court; prosecution.

Sec. 11. If the public utility or resale customer determines and reports to the administrator that a utility user has refused to pay the tax due, the public utility or resale customer is relieved of the obligation to rebill the tax amount involved. In this event the administrator may, but is not required to, issue a proposed assessment or a final assessment against the user. The administrator may issue a 10-day demand for payment and if no payment or satisfactory evidence of payment is made in the 10 days he or she may thereafter recover the tax with interest and penalties thereon in the name of the city in any court of record as other debts are recoverable, or prosecute for violation of this ordinance under section 17, or both.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1172 Additional assessment.

Sec. 12. Except in case of fraud, failure to file a return, or omission of substantial portions of tax due on a return, an additional assessment shall not be made after 3 years from the date the return was due, including extensions thereof, or the tax was paid, whichever is later.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1173 Claim for refund; time; denial; appeal; payment of tax deficiency.

Sec. 13. (1) Except as otherwise provided in this ordinance, a tax erroneously paid shall not be refunded unless a claim for refund is made within 3 years from the date the payment was made to the city or the annual return was due, including extensions thereof, whichever is later. Upon denial of a refund, a taxpayer may follow the procedure for appeal as provided in section 14.

(2) A tax deficiency as finally determined and interest or penalties thereon shall be paid within 30 days after receipt of a final assessment where no appeal is made.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1174 Person aggrieved by rule, denial of claim, or special ruling; appeal; final order; payment; refund.

Sec. 14. Any person aggrieved by a rule adopted by the administrator, denial in whole or in part of a claim for refund, or a special ruling, may file a timely appeal therefrom to the state commissioner of revenue in such form and manner as the commissioner shall prescribe. Within 30 days after a final order of the commissioner upon the appeal, such person shall pay the city the taxes, interest, and penalty found due to the city, and the city shall refund any amount found to have been overpaid.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1175 Grievance; judicial determination.

Sec. 15. If a taxpayer, public utility, resale customer, person, or city is aggrieved by a decision of the state commissioner of revenue, the aggrieved party may bring an action within 90 days in the circuit court for the county in which the taxing jurisdiction is located to obtain a judicial determination of the matter.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1176 Payment of recovery from general fund.

Sec. 16. If a person is found entitled by a decision on an appeal to recover any sum paid and no further appeal has been taken within the time limited, the sum shall be paid from the general fund of the city.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

141.1177 Violations; penalties.

Sec. 17. Each of the following violations of this ordinance is punishable, in addition to the interest and penalties provided under the ordinance, by a fine not exceeding $500.00, or imprisonment for a period not exceeding 90 days or both:

(a) Refusal or willful failure or neglect to file a return required by the ordinance.

(b) Refusal or willful failure or neglect to pay the tax, penalty, or interest imposed by the ordinance.

(c) Willful failure of a public utility or resale customer to remit to the city tax moneys received as required by the ordinance.

(d) Refusal to permit the city or an agent or employee appointed by the administrator in writing to examine the books, records, and papers of a person subject to the ordinance.

(e) Knowingly filing an incomplete, false, or fraudulent return or other tax document.

History: 1990, Act 100, Imd. Eff. June 13, 1990.

LOCAL GOVERNMENT FISCAL RESPONSIBILITY ACT
Act 72 of 1990

AN ACT to provide for review, management, planning, and control of the financial operation of units of local government, including school districts; to provide criteria to be used in determining the financial condition of a local government; to permit a declaration of the existence of a local government financial emergency and to prescribe the powers and duties of the governor, other state boards, agencies, and officials, and officials and employees of units of local government; to provide for a review and appeal process; to provide for the appointment and to prescribe the powers and duties of an emergency financial manager; to require the development of financial plans to regulate expenditures and investments by a local government in a state of financial emergency; to set forth the conditions for termination of a local government financial emergency; and to repeal certain acts and parts of acts.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

The People of the State of Michigan enact:

ARTICLE 1

GENERAL PROVISIONS

141.1201 Short title.

Sec. 1. This act shall be known and may be cited as the “local government fiscal responsibility act”.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1202 Legislative determinations.

Sec. 2. The legislature hereby determines that the public health and welfare of the citizens of this state would be adversely affected by the insolvency of units of local government, including certain school districts, and that the survival of units of local government is vitally necessary to the interests of the people of this state to provide necessary governmental services. The legislature further determines that it is vitally necessary to protect the credit of the state and its political subdivisions and that it is a valid public purpose for the state to take action and to assist a unit of local government in a fiscal emergency situation to remedy this emergency situation by requiring prudent fiscal management. The legislature, therefore, determines that the authority and powers conferred by this act constitute a necessary program and serve a valid public purpose.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

ARTICLE 2

GOVERNMENTAL PROVISIONS

141.1211 Definitions.

Sec. 11. As used in this article:

(a) “Chief administrative officer” means any of the following:

(*i*) The manager of a village or, if a village does not employ a manager, the president of the village.

(*ii*) The city manager of a city or, if a city does not employ a city manager, the mayor of the city.

(*iii*) The manager of a township, the superintendent of a charter township, or if the township does not employ a manager or superintendent, the supervisor of the township.

(*iv*) The elected county executive or appointed county manager of a county; or if the county has not adopted the provisions of either Act No. 139 of the Public Acts of 1973, being sections 45.551 to 45.573 of the Michigan Compiled Laws, or Act No. 293 of the Public Acts of 1966, being sections 45.501 to 45.521 of the Michigan Compiled Laws, the chairperson of the county board of commissioners of the county.

(*v*) The chief operating officer of an authority or a public utility owned by a city, village, township, or county.

(b) “Emergency financial manager” means the emergency financial manager appointed under section 18.

(c) “Local government” means a city, a village, a township, a county, an authority established by law, or a public utility owned by a city, village, township, or county.

(d) “Review team” means the review team designated under section 13.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1212 Preliminary review by state treasurer; conditions; notice; meeting with local government; informing governor of serious financial problem.

Sec. 12. (1) The state treasurer shall conduct a preliminary review to determine the existence of a local government financial problem if 1 or more of the following occur:

(a) The governing body or the chief administrative officer of a local government requests a preliminary review under this article. The request shall be in writing and shall identify the existing financial conditions that make the request necessary.

(b) The state treasurer receives a written request from a creditor with an undisputed claim that remains unpaid 6 months after its due date against the local government that exceeds the greater of $10,000.00 or 1% of the annual general fund budget of the local government, provided that the creditor notifies the local government in writing at least 30 days before his or her request to the state treasurer of his or her intention to invoke this provision.

(c) The state treasurer receives a petition containing specific allegations of local government financial distress signed by a number of registered electors residing within the jurisdiction of the local government equal to not less than 10% of the total vote cast for all candidates for governor within the jurisdiction of the local government at the last preceding election at which a governor was elected. Petitions shall not be filed under this subdivision within 60 days before any election of the local government.

(d) The state treasurer receives written notification from the trustee, actuary, or at least 10% of the beneficiaries of a local government pension fund alleging that a local government has not timely deposited its minimum obligation payment to the local government pension fund as required by law.

(e) The state treasurer receives written notification that employees of the local government have not been paid and it has been at least 7 days after the scheduled date of payment.

(f) The state treasurer receives written notification from a trustee, paying agent, or bondholder of a default in a bond payment or a violation of 1 or more bond covenants.

(g) The state treasurer receives a resolution from either the senate or the house of representatives requesting a preliminary review under this section.

(h) The local government has violated the conditions of an order issued pursuant to, or of a requirement of, former 1943 PA 202, the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or any other law governing the issuance of bonds or notes.

(i) The local government has violated the conditions of an order issued in the effectuation of the purposes of the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, by the local emergency financial assistance loan board created by the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(j) The local government has violated the requirements of sections 17 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.437 to 141.440, and the state treasurer has forwarded a report of this violation to the attorney general.

(k) The local government has failed to comply with the requirements of section 21 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921, for filing or instituting a deficit recovery plan.

(*l*) The local government fails to provide an annual financial report or audit that conforms with the minimum procedures and standards of the state treasurer and is required under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to 21.55.

(m) The local government is delinquent in the distribution of tax revenues, as required by law, that it has collected for another taxing jurisdiction, and that taxing jurisdiction requests a preliminary review.

(n) A court has ordered an additional tax levy without the prior approval of the governing body of the local government.

(2) In conducting a preliminary review under this section, the state treasurer shall give the local government specific written notification of the review, and the state treasurer shall meet with the local government. At this meeting, the state treasurer shall receive, discuss, and consider information provided by the local government concerning the existence of and seriousness of financial conditions within the local government.

(3) When the state treasurer conducts a preliminary review under this section, he or she shall inform the governor within 30 days after beginning the preliminary review whether or not his or her investigation has determined that a serious financial problem may exist because 1 or more conditions indicative of a serious financial problem exist within the local government.

History: 1990, Act 72, Imd. Eff. May 15, 1990;—Am. 2002, Act 408, Imd. Eff. June 3, 2002.

141.1213 Review team; appointment; conditions to undertaking local financial management review; effect of former law.

Sec. 13. (1) The governor shall appoint a review team of the state treasurer, the auditor general, a nominee of the senate majority leader, a nominee of the speaker of the house of representatives, and other state officials or other persons with relevant professional experience to serve as a review team to undertake a local financial management review if 1 or more of the following occur:

(a) The governing body of a local government, by resolution, requests assistance under this article in meeting the ordinary needs of government. The resolution shall identify the existing financial conditions that make the request for assistance necessary. The resolution under this subsection shall be subject to the legislative vote requirement and the executive approval requirement applicable to enactment of an ordinance by the local government.

(b) The governor has been informed by the state treasurer pursuant to section 12 that he or she has conducted a preliminary review of a local government financial situation and has determined that 1 or more conditions indicative of a serious financial problem may exist within the local government.

(2) A review team appointed under the local government fiscal responsibility act, former Act No. 101 of the Public Acts of 1988, and serving on the effective date of this act shall continue under this act to fulfill their powers and duties. All proceedings and actions taken by the governor, the state treasurer, or a review team under former Act No. 101 of the Public Acts of 1988 before the effective date of this act are ratified and are enforceable as if the proceedings and actions were taken under this act, and a consent agreement entered into under former Act No. 101 of the Public Acts of 1988 is ratified and is binding and enforceable under this act.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1214 Review team; functions; report to governor; contents; time; copies of report; conclusion.

Sec. 14. (1) The review team appointed by the governor shall have full power in its review to perform all of the following functions:

(a) Examine the books and records of the local government.

(b) Utilize the services of other state agencies and employees.

(c) Sign a consent agreement with the chief administrative officer of the local government. The agreement may provide for remedial measures considered necessary including a long-range financial recovery plan requiring specific local actions. The agreement may utilize state financial management and technical assistance as necessary in order to alleviate the local financial problem. The agreement may also provide for periodic fiscal status reports to the state treasurer. In order for the consent agreement to go into effect, it shall be approved, by resolution, by the governing body of the local government.

(2) In the report to the governor under subsection (3) on the financial conditions of the local government, the review team shall inform the governor if 1 or more of the following conditions indicative of a serious financial problem exist, or have occurred, or are likely to exist or occur, if remedial action is not taken:

(a) A default in the payment of principal or interest upon bonded obligations or notes for which no funds or insufficient funds are on hand and segregated in a special trust fund.

(b) Failure for a period of 30 days or more beyond the due date to transfer 1 or more of the following to the appropriate agency:

(*i*) Taxes withheld on the income of employees.

(*ii*) Taxes collected by the government as agent for another governmental unit, school district, or other entity or taxing authority.

(*iii*) Any contribution required by a pension, retirement, or benefit plan.

(c) Failure for a period of 30 days or more to pay wages and salaries or other compensation owed to employees or retirees.

(d) The total amount of accounts payable for the current fiscal year, as determined by the state treasurer's uniform chart of accounts, is in excess of 10% of the total expenditures of the local government in that fiscal year.

(e) Failure to eliminate an existing deficit in any fund of the local government within the 2-year period preceding the end of the local government's fiscal year during which the review team report is received.

(f) Projection of a deficit in the general fund of the local government for the current fiscal year in excess of 10% of the budgeted revenues for the general fund.

(3) The review team shall report its findings to the governor within 60 days after their appointment, or earlier if required by the governor. Upon request, the governor may grant 1 30-day extension of this time limit. A copy of the report to the governor shall be sent to the chief administrative officer and the governing body of the local government, the speaker of the house of representatives, and the senate majority leader. The review team shall include 1 of the following conclusions in its report:

(a) A serious financial problem does not exist in the local government.

(b) A serious financial problem exists in the local government, but a consent agreement containing a plan to resolve the problem has been adopted pursuant to section 14(1)(c).

(c) A local government financial emergency exists because no satisfactory plan exists to resolve a serious financial problem.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1215 Determination by governor; notice; findings of fact; statement; hearing; confirmation or revocation of determination; report.

Sec. 15. (1) Within 30 days after receipt of the report provided for in section 14, the governor shall make 1 of the following determinations:

(a) A serious financial problem does not exist in the local government.

(b) A serious financial problem exists in the local government, but a consent agreement containing a plan to resolve the problem has been adopted pursuant to section 14(1)(c).

(c) A local government financial emergency exists because no satisfactory plan to resolve a serious financial problem exists.

(2) If the governor determines pursuant to subsection (1) that a financial emergency exists, the governor shall provide the governing body and chief administrative officer of the local unit with a written notification of the determination, findings of fact utilized as the basis upon which this determination was made, a concise and explicit statement of the underlying facts supporting the factual findings, and notice that the chief administrative officer or the governing body of the local government has 10 days after the date of this notification to request a hearing conducted by the governor or the governor's designate. Following the hearing, or if no hearing is requested following the expiration of the deadline by which a hearing may be requested, the governor shall either confirm or revoke, in writing, the determination of the existence of a local financial emergency. If confirmed, the governor shall provide a written report of the findings of fact of the continuing or newly developed conditions or events providing a basis for the confirmation of a local financial emergency, and a concise and explicit statement of the underlying facts supporting these factual findings.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1216 Failure to abide by provisions of consent agreement.

Sec. 16. If, at any time following determination by the governor that a serious financial problem exists under section 15(1)(b), the state treasurer or the review team informs the governor that the local government is not abiding by the provisions of a consent agreement, the governor shall determine that a financial emergency exists in the local government, and section 15(2) and section 18 shall then apply to that local government.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1217 Appeal; setting aside determination.

Sec. 17. A local government for which a financial emergency determination pursuant to section 15 or 16 has been confirmed to exist by the governor may appeal this determination to the circuit court for the county in which the local government is located or to the circuit court for the county of Ingham. The court shall not set aside a determination of the governor unless it finds that the determination is either of the following:

(a) Not supported by competent, material, and substantial evidence on the whole record.

(b) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1218 Assigning responsibility for managing local government financial emergency; appointment, qualifications, and term of emergency financial manager; compensation and expenses; staff and professional assistance.

Sec. 18. (1) If the governor determines that a financial emergency exists under section 15, the governor shall assign the responsibility for managing the local government financial emergency to the local emergency financial assistance loan board created under the emergency municipal loan act, Act No. 243 of the Public Acts of 1980, being sections 141.931 to 141.942 of the Michigan Compiled Laws. The local emergency financial assistance loan board shall appoint an emergency financial manager. The emergency financial manager shall be chosen solely on the basis of his or her competence and shall not have been either an elected or appointed official or employee of the local government for which appointed for not less than 5 years before the appointment. The emergency financial manager need not be a resident of the local government for which he or she is appointed. The emergency financial manager shall serve at the pleasure of the local emergency financial assistance loan board. The emergency financial manager shall be entitled to compensation and reimbursement for actual and necessary expenses from the local government as approved by the local emergency financial assistance loan board. In addition to staff otherwise authorized by law, with the approval of the local emergency financial assistance loan board, the emergency financial manager may appoint additional staff and secure professional assistance considered necessary to implement this article.

(2) An emergency financial manager appointed under the local government fiscal responsibility act, former Act No. 101 of the Public Acts of 1988, and serving on the effective date of this act, except as provided in subsection (1), shall continue under this act to fulfill his or her powers and duties.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1219 Orders.

Sec. 19. The emergency financial manager shall issue to the appropriate officials or employees of the local government the orders the manager considers necessary to accomplish the purposes of this act, including, but not limited to, orders for the timely and satisfactory implementation of a financial plan developed pursuant to section 20. An order issued under this section is binding on the local officials or employees to whom it is issued.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1220 Written financial plan.

Sec. 20. (1) In consultation with the local government, the emergency financial manager shall develop, and may from time to time amend, a written financial plan for the local government. The financial plan shall provide for both of the following:

(a) Conducting the operations of the local government within the resources available according to the emergency financial manager's revenue estimate.

(b) The payment in full of the scheduled debt service requirements on all bonds and notes of the local government and all other uncontested legal obligations.

(2) After the initial development of a financial plan, the plan shall be regularly reexamined by the emergency financial manager in consultation with the local government, and if the emergency financial manager reduces his or her revenue estimates, the emergency financial manager shall modify the financial plan to conform to revised revenue estimates.

(3) The financial plan shall be in a form and shall contain that information for each year during which year the financial plan is in effect that the local emergency financial manager specifies.

(4) The emergency financial manager shall make public the plan or modified plan. This subsection shall not be construed to mean that the emergency financial manager must receive public approval before he or she implements the financial plan or any modification of the plan.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1221 Additional actions by emergency financial manager.

Sec. 21. (1) An emergency financial manager may take 1 or more of the following additional actions with respect to a unit of local government in which a financial emergency has been determined to exist:

(a) Analyze factors and circumstances contributing to the financial condition of the unit of local government and recommend steps to be taken to correct the condition.

(b) Amend, revise, approve, or disapprove the budget of the unit of local government, and limit the total amount appropriated or expended during the balance of the financial emergency.

(c) Require and approve or disapprove, or amend or revise a plan for paying all outstanding obligations of the unit of local government.

(d) Require and prescribe the form of special reports to be made by the finance officer of the unit of local government to its governing body, the creditors of the unit of local government, the emergency financial manager, or the public.

(e) Examine all records and books of account, and require under the procedures of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to 21.55, or both, the attendance of witnesses and the production of books, papers, contracts, and other documents relevant to an analysis of the financial condition of the unit of local government.

(f) Make, approve, or disapprove any appropriation, contract, expenditure, or loan, the creation of any new position, or the filling of any vacancy in a permanent position by any appointing authority.

(g) Review payrolls or other claims against the unit of local government before payment.

(h) Exercise all of the authority of the unit of local government to renegotiate existing labor contracts and act as an agent of the unit of local government in collective bargaining with employees or representatives and approve any contract or agreement.

(i) Notwithstanding the provisions of any charter to the contrary, consolidate departments of the unit of local government or transfer functions from 1 department to another and to appoint, supervise, and, at his or her discretion, remove heads of departments other than elected officials, the clerk of the unit of local government, and any ombudsman position in the unit of local government.

(j) Employ or contract for, at the expense of the unit of local government and with the approval of the local emergency financial assistance loan board, auditors and other technical personnel considered necessary to implement this article.

(k) Require compliance with the orders of the emergency financial manager by court action if necessary.

(*l*) Except as restricted by charter or otherwise, sell or otherwise use the assets of the unit of local government to meet past or current obligations, provided the use of assets for this purpose does not endanger the public health, safety, or welfare of residents of the unit of local government.

(m) Apply for a loan from the state on behalf of the unit of local government, subject to the conditions of the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, in a sufficient amount to pay the expenses of the emergency financial manager and for other lawful purposes.

(n) Approve or disapprove of the issuance of obligations of the unit of local government on behalf of the municipality, subject to the conditions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(o) Enter into agreements with other units of local government for the provision of services.

(p) Exercise the authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions affecting the financial condition of the unit of local government as provided in the following acts:

(*i*) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

(*ii*) The fourth class city act, 1895 PA 215, MCL 81.1 to 113.20.

(*iii*) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(*iv*) 1851 PA 156, MCL 46.1 to 46.32.

(*v*) 1966 PA 293, MCL 45.501 to 45.521.

(*vi*) The general law village act, 1895 PA 3, MCL 61.1 to 74.25.

(*vii*) The home rule village act, 1909 PA 278, MCL 78.1 to 78.28.

(q) Reduce, suspend, or eliminate the salary, or other compensation of the chief administrative officer and members of the governing body of the unit of local government during the financial emergency. This subdivision does not authorize an emergency financial manager to impair vested retirement benefits. If an emergency financial manager has reduced, suspended, or eliminated the salary or other compensation of the chief administrative officer and members of the governing body of a unit of local government before the effective date of the amendatory act that added this subdivision, the reduction, suspension, or elimination is valid to the same extent had it occurred after the effective date of the amendatory act that added this subdivision.

(2) If a financial emergency exists under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, the emergency financial manager shall make a determination as to whether possible criminal conduct contributed to the financial emergency. If the manager determines that there is reason to believe that criminal conduct has occurred, the manager shall refer the matter to the attorney general and the local prosecuting attorney for investigation. The determination required under this subsection shall be made by 1 of the following dates, whichever is later:

(a) Within 90 days after the effective date of the amendatory act that added this subsection.

(b) Within 180 days after the date the emergency financial manager is appointed.

(3) Not later than 90 days after the completion of the emergency financial manager's term, the governing body of the unit of local government shall review any ordinance implemented by the emergency financial manager during his or her term, except any ordinance enacted to assure the payment of principal and interest on bonds.

History: 1990, Act 72, Imd. Eff. May 15, 1990;—Am. 2002, Act 408, Imd. Eff. June 3, 2002;—Am. 2003, Act 282, Imd. Eff. Jan. 8, 2004.

141.1221a Report filed by emergency financial manager with governor, senate majority leader, speaker of house of representatives and posted on website of local unit of government.

Sec. 21a. (1) An emergency financial manager appointed under this article shall file with the governor, the senate majority leader, and the speaker of the house of representatives and post on the internet on the website of the local unit of government a report that contains all of the following:

(a) A description of each expenditure made, approved, or disapproved during the reporting period that has a cumulative value of $10,000.00 or more and the source of the funds.

(b) A list of each contract that the emergency financial manager awarded or approved with a cumulative value of $10,000.00 or more, the purpose of the contract, and the identity of the contractor.

(c) A description of each loan sought, approved, or disapproved during the reporting period that has a cumulative value of $10,000.00 or more and the proposed use of the funds.

(d) A description of any new position created or any vacancy in a permanent position filled by the appointing authority.

(e) A description of any position that has been eliminated or from which an employee has been laid off.

(2) The report required under this section shall be submitted every 6 months, beginning 6 months after the starting date of the emergency financial manager.

History: Add. 2009, Act 181, Imd. Eff. Dec. 15, 2009.

141.1222 Authorization to proceed under federal law; local government as debtor; notice.

Sec. 22. (1) After giving written notice to the local emergency financial assistance loan board, the emergency financial manager may authorize the local government to proceed under title 11 of the United States Code, 11 U.S.C. 101 to 1330, unless this authorization is disapproved by the local emergency financial assistance loan board within 60 days after the notice has been received by the board. This section empowers the local government for which an emergency financial manager has been appointed to become a debtor under title 11 of the United States Code as required by section 109 of title 11 of the United States Code, 11 U.S.C. 109.

(2) The notice to the local emergency financial assistance loan board under subsection (1) shall include a determination by the emergency financial manager that no feasible financial plan can be adopted that can satisfactorily resolve the financial emergency in a timely manner, or a determination by the emergency financial manager that an adopted financial plan, in effect for at least 180 days, cannot be implemented, as written or as it might be amended, in a manner that can satisfactorily resolve the financial emergency in a timely manner.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1223 Liability.

Sec. 23. The state, the members of the local emergency financial assistance loan board, and the emergency financial manager are not liable for any obligation of or claim against a local government resulting from actions taken in accordance with the terms of this article.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1224 Failure of elected officials to provide assistance and information as gross neglect of duty; report; review and hearing; removal from office; filling vacancy.

Sec. 24. Elected officials of a local government shall provide the assistance and information necessary and properly requested by a review team, the local emergency financial assistance loan board, or the emergency financial manager in the effectuation of their duties and powers and of the purposes of this article. Failure of an elected official of a local government to abide by this article shall be considered gross neglect of duty, which the emergency financial manager shall report to the local emergency financial assistance loan board. Following review and a hearing with the local government elected official, the local emergency financial assistance loan board may recommend to the governor that the governor remove the elected official from office. If the governor removes the elected official from office, the resulting vacancy in office shall be filled as prescribed by law.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1225 Revoking declaration of financial emergency; recommendation.

Sec. 25. The governor may determine that the conditions for revoking the declaration of a financial emergency have been met after receiving a recommendation from the local emergency financial assistance loan board.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1226 Power to impose taxes.

Sec. 26. This act shall not be construed to give the emergency financial manager or the local financial assistance loan board the power to impose taxes, over and above those already authorized, without the approval at an election of a majority of the qualified electors voting on the question.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

ARTICLE 3

141.1231 Definitions.

Sec. 31. As used in this article:

(a) "Emergency financial manager" means the emergency financial manager appointed under section 34.

(b) "Review team" means the review team designated under section 34.

(c) "School board" means the governing body of a school district.

(d) "School district" or "district" means a local school district established under part 2, 3, 4, 5, or 6 of the school code of 1976, being sections 380.71 to 380.485 of the Michigan Compiled Laws, or a local act school district as defined in section 5 of the school code of 1976, being section 380.5 of the Michigan Compiled Laws.

(e) "School fiscal year" means a fiscal year that commences July 1 and continues through June 30.

(f) "State board" means the state board of education.

(g) "The school code of 1976" means Act No. 451 of the Public Acts of 1976, being sections 380.1 to 380.1852 of the Michigan Compiled Laws.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1232 Responsibility for monitoring and reviewing financial condition of school districts.

Sec. 32. The superintendent of public instruction is responsible for monitoring and periodically reviewing the financial condition of school districts to ensure their compliance with state laws regulating budgetary and accounting practices and their financial soundness.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1233 Determination of serious financial problem; conditions; notice.

Sec. 33. (1) The superintendent of public instruction may determine that a school district has a serious financial problem if he or she finds that 1 or more of the following conditions exist:

(a) The school district ended the most recently completed school fiscal year with a deficit in 1 or more of its funds and the superintendent of public instruction has not approved a deficit elimination plan within 3 months after the district's deadline for submission of its annual financial statement.

(b) The school board of the school district adopts a resolution declaring that the school district is in a financial emergency.

(c) The superintendent of public instruction receives a petition containing specific allegations of school district financial distress signed by a number of registered electors residing within the school district equal to not less than 10% of the total vote cast for all candidates for governor within the school district at the last preceding election at which a governor was elected. Petitions shall not be filed under this subdivision within 60 days before any election of the school district.

(d) The superintendent of public instruction receives a written request, from a creditor of the school district with an undisputed claim against the school district, to find the school district has a serious financial problem. The superintendent of public instruction may honor this request only if the claim remains unpaid 6 months after its due date, the claim exceeds the greater of $10,000.00 or 1% of the annual general fund budget of the school district, and the creditor notifies the school district in writing at least 30 days before he or she requests the superintendent of public instruction to find that the school district has a serious financial problem.

(e) The superintendent of public instruction receives written notification from a trustee, paying agent, note or bondholder, or the state treasurer of a violation of 1 or more of the school district's bond or note covenants.

(f) The superintendent of public instruction receives a resolution from either the senate or the house of representatives requesting a review under this section of the financial condition of the school district.

(g) The school district is in violation of the conditions of an order issued pursuant to, or as a requirement of, former 1943 PA 202, the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or any other law governing the issuance of bonds or notes.

(h) The school district is in violation of the requirements of sections 17 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.437 to 141.440.

(i) The school district fails to provide an annual financial report or audit that conforms with the minimum procedures and standards of the state board and is required under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

(j) A court has ordered an additional tax levy without the prior approval of the school board of the school district.

(2) Upon determining that a school district has a serious financial problem, the superintendent of public

instruction shall notify the governor and the state board of that determination and of the basis for and findings supporting the determination.

History: 1990, Act 72, Imd. Eff. May 15, 1990;—Am. 1992, Act 265, Eff. Jan. 1, 1993;—Am. 2002, Act 408, Imd. Eff. June 3, 2002.

141.1234 Review team; appointment; composition; purpose; conditions; functions; report of findings; time; copies of report; conclusion.

Sec. 34. (1) Within 30 days after an occurrence described in this subsection, the governor shall appoint a review team composed of the superintendent of public instruction, the state treasurer, the director of the department of management and budget, a nominee of the senate majority leader, and a nominee of the speaker of the house of representatives to review the financial condition of a school district if 1 or more of the following occur:

(a) The governor is informed by the superintendent of public instruction pursuant to section 33(2) that he or she has determined that the school district has a serious financial problem.

(b) The school district is in default in the payment of interest on or principal of any obligation of the school district.

(c) The school district fails to pay its employees within 5 days of any regularly scheduled payday.

(d) The school district fails to make any contribution required by a pension, retirement, or benefit plan in accordance with state law.

(e) The superintendent of public instruction determines that the school district has failed to comply substantively with the terms of an approved deficit elimination plan required under section 102 of the state school aid act of 1979, Act No. 94 of the Public Acts of 1979, being section 388.1702 of the Michigan Compiled Laws.

(f) The state treasurer notifies the governor that the appointment of a review team is necessary to protect the credit of the school district or the state, or both.

(2) The review team appointed by the governor pursuant to subsection (1) shall have full power in its review to perform all of the following functions:

(a) Examine the books and records of the school district.

(b) Utilize the services of other state agencies and employees and employ professionals necessary to assist in its duties.

(c) Sign a consent agreement with the superintendent of the school district. The agreement may provide for remedial measures considered necessary, including, but not limited to, a long-range financial recovery plan requiring specific actions. The agreement may utilize state financial management and technical assistance as necessary in order to alleviate the financial problem of the school district. The agreement may also provide for periodic fiscal status reports to the superintendent of public instruction. Before the consent agreement becomes effective, the school board of the school district, by a majority vote of the total number of members authorized by law to serve on the board, shall approve the agreement.

(3) The review team shall report its findings to the governor and the state board within 30 days after its appointment, or earlier if required by the governor. Upon request, the governor may grant 1 60-day extension of this time limit. The review team shall send a copy of its report to the superintendent of public instruction, the school board of the school district, the senate majority leader, and the speaker of the house of representatives. The review team shall include 1 of the following conclusions in its report:

(a) The school district does not have a serious financial problem.

(b) The school district does have a serious financial problem, but a consent agreement containing a plan to resolve the problem has been adopted pursuant to subsection (2)(c).

(c) The school district has a financial emergency because a consent agreement containing a plan to resolve a serious financial problem within the school district has not been adopted.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1235 Determination by superintendent of public instruction; notice; findings of fact; statement; hearing; confirmation or revocation of determination; report.

Sec. 35. (1) Within 30 days after the state board receives the review team's report required by section 34(3), the superintendent of public instruction shall make 1 of the following determinations:

(a) The school district does not have a serious financial problem.

(b) The school district does have a serious financial problem, but a consent agreement containing a plan to resolve the problem has been adopted pursuant to section 34(2)(c).

(c) The school district has a financial emergency because a consent agreement containing a plan to resolve a serious financial problem within the school district has not been adopted.

(2) If the superintendent of public instruction determines pursuant to subsection (1) that a financial

emergency exists, the superintendent of public instruction shall provide the school board of the school district with written notification of the determination, findings of fact utilized as the basis upon which this determination was made, a concise and explicit statement of the underlying facts supporting the findings of fact, and notice that the school board of the school district has 10 days after the date of this notification to request a hearing conducted by the superintendent of public instruction or his or her designee to contest the superintendent's determination. After the hearing, or if no hearing is requested, after the expiration of the deadline by which a hearing may be requested, the superintendent of public instruction shall either confirm or revoke, in writing, the determination that the school district has a financial emergency. If the determination is confirmed, the superintendent of public instruction shall provide a written report to the school board of the school district of the findings of fact of the continuing or newly developed conditions or events that provide the basis for the confirmation of the determination, and a concise and explicit statement of the underlying facts supporting these findings of fact.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1236 Failure to abide by consent agreement.

Sec. 36. If, at any time following a determination by the superintendent of public instruction under section 35(1)(b) that the school district has a financial emergency, the superintendent of public instruction informs the governor and the state board that the school district is not abiding by the consent agreement, section 35(2) and section 38 shall then apply to that school district.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1237 Appeal; setting aside determination.

Sec. 37. The board of a school district that the superintendent of public instruction has determined has a financial emergency may appeal this determination to the circuit court for a county in which the school district is located. The court shall not set aside a determination of the superintendent of public instruction unless it finds that the determination is either 1 of the following:

(a) Not supported by competent, material, and substantial evidence on the whole record.

(b) Arbitrary, capricious, or clearly an abuse of unwarranted exercise of discretion.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1238 Emergency financial manager; nominees; appointment, qualifications, and term; contract; compensation and expenses; staff and professional assistance.

Sec. 38. (1) If the superintendent of public instruction determines under section 35 or 36 that a school district has a financial emergency, the superintendent of public instruction, within 30 days after that determination, shall submit to the state board the names of nominees who shall be considered for appointment to serve as an emergency financial manager for the school district. From the list of nominees submitted to the state board, the state board shall submit to the governor the names of not more than 3 nominees who shall be considered for appointment to serve as an emergency financial manager for the school district. From the list of nominees submitted to the governor, the governor shall appoint, with the advice and consent of the senate, an emergency financial manager for the school district who shall hold office for a term fixed by the governor, but not to exceed 1 year. The appointment shall be by written contract and may be renewed on an annual basis for not more than 1 year.

(2) An emergency financial manager appointed under this article shall be chosen solely on the basis of his or her competence in fiscal matters and shall not have been either an elected or appointed official or employee of the school district for which he or she is appointed for not less than 5 years before the appointment. The emergency financial manager shall not be the superintendent of public instruction. The emergency financial manager need not be a resident of the school district for which he or she is appointed.

(3) Unless the legislature provides special funding, an emergency financial manager shall receive compensation and reimbursement for actual and necessary expenses from the school district as approved by the superintendent of public instruction. In addition to staff otherwise authorized by law, with the approval of the superintendent of public instruction, the emergency financial manager may appoint additional staff and secure professional assistance considered necessary to implement this article.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1239 Orders.

Sec. 39. The emergency financial manager shall issue to the appropriate officials or employees of the school district the orders that he or she considers necessary to accomplish the purposes of this article, including, but not limited to, orders for the timely and satisfactory implementation of a financial plan developed pursuant to section 40. An order issued under this section is binding on the school district officials or employees to whom it is issued.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1240 Written financial plan.

Sec. 40. (1) In consultation with the school board, the emergency financial manager shall develop, and may from time to time amend, a written financial plan for the school district. The financial plan shall provide for both of the following:

(a) Conducting the operations of the school district within the resources available according to the emergency financial manager's revenue estimate.

(b) The payment in full of the scheduled debt service requirements on all bonds and notes of the school district and all other uncontested legal obligations.

(2) After the initial development of the financial plan required by subsection (1), the emergency financial manager in consultation with the school board shall regularly reexamine the plan, and if the emergency financial manager reduces his or her revenue estimates, he or she shall modify the financial plan to conform to revised revenue estimates.

(3) The financial plan shall be in a form, and shall contain that information for each year the plan is in effect, that the school district's emergency financial manager specifies.

(4) The emergency financial manager shall make public the plan or modified plan. This subsection shall not be construed to mean that the emergency financial manager must receive public approval before he or she implements the financial plan or any modification to the plan.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1241 Control over fiscal matters; fiscal decisions; actions by emergency financial manager; authorization to proceed under federal law; school district as debtor.

Sec. 41. (1) Upon appointment under section 38, an emergency financial manager shall immediately assume control over all fiscal matters of, and make all fiscal decisions for, the school district for which he or she is appointed.

(2) In implementing this article and performing his or her functions under this article, an emergency financial manager may take 1 or more of the following actions:

(a) Examine the books and records of the school district.

(b) Review payrolls or other claims against the school district before payment.

(c) Negotiate, renegotiate, approve, and enter into contracts on behalf of the school district.

(d) Receive and disburse on behalf of the school district all federal, state, and local funds earmarked for the school district. These funds may include, but are not limited to, funds for specific programs and the retirement of debt.

(e) Adopt a final budget for the next school fiscal year and amend any adopted budget of the school district.

(f) Act as an agent of the school district in collective bargaining and, to the extent possible under state labor law, renegotiate existing and negotiate new labor agreements.

(g) Analyze factors contributing to the financial condition of the school district and recommend to the legislature steps that need to be taken to improve the district's financial condition.

(h) Require compliance with his or her orders, by court action if necessary.

(i) Require the attendance of witnesses and the production of books, papers, contracts, and other documents relevant to an analysis of the financial condition of the school district.

(j) Recommend to the governor, the legislature, and the state board that the school district be reorganized with 1 or more contiguous school districts.

(k) Consolidate divisions or transfer functions from 1 division to another division within the school district and appoint, supervise, and, at his or her discretion, remove, within legal limitations, heads of divisions of the school district.

(*l*) Create a new position or approve or disapprove the creation of any new position or the filling of a vacancy in a permanent position by an appointing authority.

(m) Seek approval from the state board for a reduced class schedule in accordance with administrative rules governing the distribution of state school aid.

(n) Employ or contract for, at the expense of the school district and with the approval of the superintendent of public instruction, auditors and other technical personnel considered necessary to implement this article.

(o) Reduce expenditures in the budget of the school district.

(p) Borrow money on behalf of the school district.

(q) Approve or disapprove of the issuance of obligations of the school district.

(r) Order, as necessary, 1 or more school millage elections for the school district consistent with the school code of 1976, the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws, and sections 6 and 25 through 34 of article IX of the state constitution of 1963.

(s) Sell or otherwise use the assets of the school district to meet past or current obligations, provided the use of assets for this purpose does not impair the education of the pupils of the district.

(t) Exercise the authority and responsibilities affecting the financial condition of the school district that are prescribed by law to the school board and superintendent of the school district.

(3) After giving written notice to the superintendent of public instruction, the emergency financial manager may authorize the school district to proceed under chapter 9 of title 11 of the United States Code, 11 U.S.C. 901 to 904, 921 to 932, and 941 to 946. This section empowers the school district for which an emergency financial manager has been appointed to become a debtor under chapter 9 of title 11 of the United States Code.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1241a Report filed by emergency financial manager with governor, senate majority leader, speaker of house of representatives and posted on website of school district.

Sec. 41a. (1) An emergency financial manager appointed under this article shall file with the governor, the senate majority leader, and the speaker of the house of representatives and post on the internet on the website of the school district a report that contains all of the following:

(a) A description of each expenditure made, approved, or disapproved during the reporting period that has a cumulative value of $10,000.00 or more and the source of the funds.

(b) A list of each contract that the emergency financial manager awarded or approved with a cumulative value of $10,000.00 or more, the purpose of the contract, and the identity of the contractor.

(c) A description of each loan sought, approved, or disapproved during the reporting period that has a cumulative value of $10,000.00 or more and the proposed use of the funds.

(d) A description of any new position created or any vacancy in a permanent position filled by the appointing authority.

(e) A description of any position that has been eliminated or from which an employee has been laid off.

(2) The report required under this section shall be submitted every 6 months, beginning 6 months after the starting date of the emergency financial manager.

History: Add. 2009, Act 181, Imd. Eff. Dec. 15, 2009.

141.1242 Revoking declaration of financial emergency; recommendation; resolution.

Sec. 42. The superintendent of public instruction may determine and certify that the conditions for revoking the declaration of a financial emergency have been met after receiving a recommendation from the emergency financial manager. The emergency financial manager may condition his or her recommendation to the superintendent of public instruction upon the school board's adoption of a resolution that will ensure the adoption of a balanced budget, elimination of any remaining accumulated deficit, and the prevention of additional negative fund balances.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1243 Assistance and information; compliance.

Sec. 43. The superintendent of public instruction; the department of education; and the school board, administrators, and employees of a school district that has a financial emergency shall provide the assistance and information considered necessary and requested by the emergency financial manager in the effectuation of his or her powers and duties under this article. The school board shall comply with orders issued by the emergency financial manager and may take those actions necessary to comply with this article and as may be prescribed by the review team, the superintendent of public instruction, or the emergency financial manager in implementing this article.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

141.1244 Liability.

Sec. 44. The state, the superintendent of public instruction, and an emergency financial manager are not liable for any obligation of or claim against a school district resulting from actions taken in accordance with this article.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

ARTICLE 6
MISCELLANEOUS PROVISIONS

141.1291 Repeal of MCL 141.1101 to 141.1118.

Sec. 91. Act No. 101 of the Public Acts of 1988, being sections 141.1101 to 141.1118 of the Michigan Compiled Laws, is repealed.

History: 1990, Act 72, Imd. Eff. May 15, 1990.

COUNTY REDISTRIBUTION OF FEDERAL PAYMENTS
Act 182 of 1990

AN ACT to require this state and certain counties to redistribute certain payments received from the federal government; and to repeal acts and parts of acts.

History: 1990, Act 182, Imd. Eff. July 18, 1990;—Am. 2003, Act 6, Imd. Eff. May 9, 2003.

The People of the State of Michigan enact:

141.1301 Definitions.

Sec. 1. As used in this act:

(a) "County payment program" means the program authorized under chapter 192, 35 Stat. 260, 16 U.S.C. 500, including the secure rural schools and community self-determination act of 2000.

(b) "Department" means the department of natural resources.

(c) "Director" means the director of the department.

(d) "Full payment amount" and "25-percent payment" mean those terms as defined in the secure rural schools and community self-determination act of 2000.

(e) "Local school district" means that term as defined in section 6 of the revised school code, 1976 PA 451, MCL 380.6.

(f) "National forest" means federally owned land for which money is paid to the state under the county payment program, as that land is situated on June 30 of the fiscal year for which the money is paid.

(g) "Secure rural schools and community self-determination act of 2000" means sections 1(a), 2, and 3 and titles I to IV of Public Law 106-393, 114 Stat. 1607, 16 U.S.C. 500 nt, as amended by section 751 of title VII of the agriculture, rural development, food and drug administration, and related agencies appropriations act, 2002, Public Law 107-76, 115 Stat. 739.

History: 1990, Act 182, Imd. Eff. July 18, 1990;—Am. 2003, Act 6, Imd. Eff. May 9, 2003.

Compiler's note: For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

141.1302 Redistribution of federal payments; purposes; ratio; apportionment of money among local school districts and townships.

Sec. 2. A county that receives a payment under section 33 of title III of the Bankhead-Jones farm tenant act, 7 U.S.C. 1012, shall redistribute that payment in a ratio of 75% to local school districts for school purposes and 25% to townships for the improvement of county roads within those townships. The treasurer of the county shall apportion among the local school districts and townships, in an equitable manner consistent with criteria determined by resolution of the county board of commissioners, money redistributed under this section.

History: 1990, Act 182, Imd. Eff. July 18, 1990.

141.1303 Expenditure of money received under county payment act; distribution; notification; election to receive full payment or 25% payment amount; redistribution; duties of county treasurer; refusal to accept payment.

Sec. 3. (1) All money received under the county payment program shall be expended for the purposes described under chapter 192, 35 Stat. 260, 16 U.S.C. 500, including the secure rural schools and community self-determination act of 2000. The department shall distribute money received under the county payment program to county treasurers in accordance with annual amounts provided by the United States department of agriculture, forest service, under the county payment program.

(2) Not later than September 30 of each year, the county board of commissioners of a county that is eligible to receive a payment under the county payment program shall provide written notification to the director and the United States secretary of agriculture that indicates the county board of commissioners' election to receive either the full payment amount or the 25-percent payment amount. The election by a county board of commissioners is subject to all of the following:

(a) An election made by a county board of commissioners to receive the full payment amount shall remain in effect through fiscal year 2006.

(b) An election by a county board of commissioners to receive the 25-percent payment amount shall remain in effect for 2 fiscal years.

(c) If a county board of commissioners fails to provide notification to the United States secretary of agriculture, the county is considered to have elected to receive the 25-percent payment amount.

(d) If a county board of commissioners elects to receive the full payment amount, the written notification shall also include the total amount of the payment that will be set aside for each of the uses provided for in subsection (5)(b) and the county board of commissioners shall provide a copy of the notification to the United States secretary of agriculture.

(e) If a county board of commissioners that has elected to receive the full payment amount fails to provide notification to the United States secretary of agriculture by September 30 of any year, the county treasurer of that county shall return 15% of the payment received for that fiscal year to the general treasury of the United States and the county shall use the remaining funds for the purposes set forth in subsection (4).

(3) As required under the secure rural schools and community self-determination act of 2000, the governor shall provide written notification to the United States secretary of agriculture of the election by each eligible county.

(4) If a county board of commissioners elects to receive the 25-percent payment amount, the county treasurer of that county shall redistribute all of the money in a ratio of 75% to local school districts for school purposes and 25% to townships for the improvement of county roads within those townships. The money redistributed under this subsection shall be apportioned among the local school districts and townships in the same proportion as the national forest acreage in each school district or township is to the total national forest acreage in the county.

(5) Except as provided in subsection (6), if a county board of commissioners elects to receive the full payment amount, the county treasurer shall do both of the following:

(a) Redistribute not less than 80% and not more than 85% of the funds as provided for in subsection (4).

(b) Set aside the remaining funds for 1 or more of the following:

(*i*) Reserve the balance for special projects on federal lands as provided for in title II of the secure rural schools and community self-determination act of 2000.

(*ii*) Reserve the balance for county projects as provided for in title III of the secure rural schools and community self-determination act of 2000.

(*iii*) Return the balance to the general treasury of the United States.

(6) If a county board of commissioners elects to receive the full payment amount, for any fiscal year the payment to the county is less than $100,000.00, the county board of commissioners may elect to distribute the funds as provided for in subsection (4).

(7) Upon expiration of the election provisions of the secure rural schools and community self-determination act of 2000, a county treasurer that receives payment under this section shall redistribute all of the money as provided for in subsection (4).

(8) At the request of the department, a county treasurer shall provide information to the department related to the distribution of funds under this act as necessary for the department to meet its obligations under federal law.

(9) The county board of commissioners of a county that is eligible to receive a payment under the county payment program may refuse to accept the payment by returning the payment amount to the general treasury of the United States.

History: 1990, Act 182, Imd. Eff. July 18, 1990;—Am. 2003, Act 6, Imd. Eff. May 9, 2003.

141.1304 Repeal of MCL 388.831 to 388.833.

Sec. 4. Act No. 37 of the Public Acts of 1933, being sections 388.831 to 388.833 of the Michigan Compiled Laws, is repealed.

History: 1990, Act 182, Imd. Eff. July 18, 1990.

CONVENTION AND TOURISM PROMOTION ACT
Act 25 of 2007

AN ACT relating to the promotion of convention business and tourism in this state and certain metropolitan areas of this state; to provide for tourism and convention marketing and promotion programs in certain metropolitan areas; to provide for imposition and collection of assessments on the owners of transient facilities to support tourism and convention marketing and promotion programs; to provide for the disbursement of the assessments; to establish the functions and duties of certain state departments and employees; and to prescribe penalties and remedies.

History: 2007, Act 25, Imd. Eff. June 28, 2007.

The People of the State of Michigan enact:

141.1321 Short title.

Sec. 1. This act shall be known and may be cited as the "convention and tourism promotion act".

History: 2007, Act 25, Imd. Eff. June 28, 2007.

141.1322 Definitions.

Sec. 2. As used in this act:

(a) "Assessment" means the amount levied against an owner of a transient facility within an assessment district computed by application of the applicable percentage against aggregate room charges with respect to that transient facility during the applicable assessment period.

(b) "Assessment district" means a municipality or a combination of municipalities as described in a marketing program.

(c) "Assessment revenues" means the money derived from the assessment, including any interest and penalties on the assessment, imposed by this act.

(d) "Board" means the board of directors of a bureau.

(e) "Bureau" means a nonprofit corporation incorporated under the laws of this state existing solely to promote convention business and tourism within this state or a portion of this state and that complies with all of the following:

(*i*) Has not less than 200 dues-paying members, of which not fewer than 25 are owners of transient facilities.

(*ii*) Has been actively engaged in promoting convention business and tourism for not less than 10 years.

(*iii*) Has a board of directors elected by its members.

(*iv*) Has a full-time chief executive officer and not fewer than 14 full-time equivalent employees.

(*v*) Is a member of 1 or more nationally recognized associations of travel and convention bureaus.

(*vi*) Regularly books conventions at the community's largest convention center, which generate hotel room nights throughout the surrounding area.

(f) "Director" means the chief executive officer of the Michigan economic development corporation or his or her designee.

(g) "Marketing program" means a program established by a bureau to develop, encourage, solicit, and promote convention business and tourism within this state or a portion of this state within which the bureau operates. The encouragement and promotion of convention business and tourism shall include any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau, that intends to attract transient guests to the assessment district.

(h) "Marketing program notice" means the notice described in section 3.

(i) "Municipality" means a city, county, village, or township.

(j) "Owner" means the owner of a transient facility located within the assessment district or, if the transient facility is operated or managed by a person other than the owner, then the operator or manager of that transient facility.

(k) "Room" means a room or other space provided for sleeping, including the furnishings and other accessories in the room.

(*l*) "Room charge" means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service or like services paid in connection with the charge, and reimbursement of the assessment imposed by this act.

(m) "Transient facility" means a building that contains 35 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. A transient facility shall not include a hospital or nursing home.

(n) "Transient guest" means a person who occupies a room in a transient facility for less than 30 consecutive days.

(o) "Use tax" means the tax imposed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

History: 2007, Act 25, Imd. Eff. June 28, 2007.

141.1323 Marketing program notice; filing; contents; assessment; limitation; mailing; form; effectiveness; referendum; effective date of assessment.

Sec. 3. (1) A bureau that has its principal place of business in an assessment district may file a marketing program notice with the director. The notice shall state that the bureau proposes to create a marketing program under this act and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the program.

(2) The marketing program notice shall describe the structure, history, membership, and activities of the bureau in sufficient detail to enable the director to determine whether the bureau satisfies all of the requirements of section 2(e).

(3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues and specify the amount of the assessment proposed to be levied, which shall not exceed 2% of the room charges in the applicable payment period, and the municipality or municipalities composing the assessment district. In an assessment district composed of more than 1 municipality, the assessment may be different in each of the municipalities that compose the assessment district.

(4) A bureau may impose an assessment not to exceed 2% of the room charges in the applicable payment period if either of the following conditions is met:

(a) The assessment district includes a municipality having a population of more than 570,000 and less than 775,000.

(b) The assessment district includes a municipality within which is levied a 4% marketing assessment under 1980 PA 395, MCL 141.871 to 141.880.

(5) Simultaneously with the filing of the marketing program notice with the director, the bureau shall cause a copy of the notice to be mailed by registered or certified mail to each owner of a transient facility located in the assessment district specified in the notice in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data that are reasonably available to the bureau.

(6) The form of the marketing program notice, in addition to the information required by subsections (1), (2), and (3), shall set forth the right of referendum prescribed in subsection (7).

(7) Except as otherwise provided in subsection (9), the assessment set forth in the notice shall become effective on the first day of the month following the expiration of 40 days after the date the notice is mailed, unless the director, within the 40-day period, receives written requests for a referendum by owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all of the transient facilities.

(8) If the director receives referendum requests in the time and number set forth in subsection (7), the director shall cause a written referendum to be held by mail or in person, as the director chooses, among all owners of transient facilities in the assessment district within 20 days after the expiration of the 40-day period. For the purposes of the referendum, each owner of a transient facility shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of votes actually cast at the referendum approve the assessment, as proposed by the bureau in its marketing program notice, the assessment shall become effective, except as otherwise provided in subsection (9), as to all owners of transient facilities located in the assessment district on the first day of the month following expiration of 30 days after certification of the results of the referendum by the director. If a majority of votes actually cast at the referendum are opposed to the assessment, the assessment shall not become effective. If the assessment is defeated by the referendum, the bureau may file and serve a new notice of intention if at least 60 days have elapsed from the date of certification of the results of the earlier referendum. Not more than 2 referenda or notices may be held pursuant to this subsection or filed pursuant to this section in any 1 calendar year. Only 1 assessment under this act may be in existence in an assessment district, or any part of an assessment district, at any 1 time.

(9) The assessment described in this act shall not be effective before January 1, 2007.

History: 2007, Act 25, Imd. Eff. June 28, 2007.

141.1324 Marketing program; provisions.

Sec. 4. A marketing program may include all or any of the following:

(a) Provisions for establishing and paying the costs of advertising, marketing, and promotional programs to encourage convention business and tourism in the assessment district.

(b) Provisions for assisting transient facilities within the assessment district in promoting convention business and tourism.

(c) Provisions for the acquisition of personal property considered appropriate by the bureau in furtherance of the purposes of the marketing program.

(d) Provisions for the hiring of and payment for personnel employed by the bureau to implement the marketing program.

(e) Provisions for contracting with organizations, agencies, or persons for carrying out activities in furtherance of the purposes of the marketing program.

(f) Programs for establishing and paying the costs of research designed to encourage convention business and tourism in the assessment district.

History: 2007, Act 25, Imd. Eff. June 28, 2007.

141.1325 Payment by owner of transient facility in assessment district; copies of use tax returns; forwarding to certified public accountants; interest; liability for payment; notice required.

Sec. 5. (1) Upon the effective date of an assessment, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed using the percentage set forth in the marketing program notice. The assessment shall be paid by the owner of each such transient facility to the bureau within 30 days after the end of each calendar month and shall be accompanied by a statement of room charges imposed with respect to the transient facility for that month. This act shall not prohibit a transient facility from reimbursing itself by adding the assessment imposed pursuant to this act to room charges payable by transient guests, provided that the transient facility discloses that it has done so on any bill presented to a transient guest.

(2) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau copies of its use tax returns for the preceding quarter. These copies of the use tax returns shall be used solely by the certified public accountants to verify and audit the owner's payment of the assessments and shall not be disclosed to the bureau except as necessary to enforce this act.

(3) Interest shall be paid by an owner to the bureau on any assessments not paid within the time called for under this act. The interest shall accrue at the rate of 1.5% per month. Owners delinquent for more than 90 days in paying assessments, in addition to the 1.5% interest, shall pay a delinquency charge of 10% per month or fraction of a month on the amount of the delinquent assessments. The bureau may sue in its own name to collect the assessments, interest, and delinquency charges.

(4) The owner of a transient facility shall not be liable for payment of an assessment until a notice has been mailed to the transient facility of the owner pursuant to section 3(5).

History: 2007, Act 25, Imd. Eff. June 28, 2007.

141.1326 State funds prohibited; disposition of money; disbursement; financial statements; audit; mailing.

Sec. 6. (1) The assessment revenues collected pursuant to this act shall not be state funds. The money shall be deposited in a bank or other depository in this state, in the name of the bureau, and disbursed only for the expenses properly incurred by the bureau with respect to the marketing programs developed by the bureau under this act.

(2) The financial statements of the bureau shall be audited at least annually by a certified public accountant. A copy of the audited financial statements shall be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial statements shall include a statement of all assessment revenues received by the bureau during the fiscal year in question and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

(3) Copies of the audited financial statements and the certified report shall simultaneously be mailed to the director.

History: 2007, Act 25, Imd. Eff. June 28, 2007.

141.1327 Advisory committee.

Sec. 7. (1) Upon the effective date of the establishment of an assessment under this act, the bureau shall cause an advisory committee to be elected consisting of representatives of the owners of transient facilities located within the assessment district, together with the director or the director's designated representative.

(2) The advisory committee shall consist of not fewer than 5 or more than 9 persons, at least 1 of whom shall not be affiliated with a bureau member. The advisory committee shall include at least 1 member who is affiliated with a transient facility of 120 rooms or fewer. Procedures for the election and terms of the office of the members of the advisory committee shall be established by the bureau.

(3) The bureau at regular intervals, but not less than quarterly, shall cause a formal meeting of the advisory committee to be held at which the bureau shall present its current and proposed marketing programs. At these formal meetings the advisory committee shall review and either approve or reject any proposed marketing programs. An approved marketing program shall be instituted by the bureau. A rejected marketing program shall not be instituted by the bureau.

(4) The advisory committee may make recommendations to the bureau and the board from time to time with respect to current or proposed marketing programs.

History: 2007, Act 25, Imd. Eff. June 28, 2007.

141.1328 Discontinuance of assessment; referendum; resolution; further referendum.

Sec. 8. (1) At any time 2 years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all the transient facilities, the bureau shall conduct a referendum on whether the assessment shall be discontinued. The bureau shall cause a written referendum to be held by mail or in person, as the bureau chooses, among all owners of transient facilities in the assessment district within 60 days of the receipt of the requests. For the purposes of the referendum, each owner shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of the total votes eligible to be cast at the referendum supports discontinuance of the assessment, the assessment shall be discontinued on the first day of the month following expiration of 90 days after the certification of the results of the referendum by the bureau.

(2) Passage of a resolution discontinuing the assessment shall not prevent a bureau from proposing a new marketing program notice during or after the 90-day period, in which case the procedures set forth in section 3 shall be followed.

(3) If a referendum is conducted under subsection (1) and if a resolution to discontinue the assessment is not adopted, a further referendum on the discontinuation of that assessment shall not be held for a period of 2 years.

History: 2007, Act 25, Imd. Eff. June 28, 2007.

REGIONAL CONVENTION FACILITY AUTHORITY ACT
Act 554 of 2008

AN ACT to create and provide for the incorporation of certain regional convention facility authorities; to provide for the membership of the authorities; to provide for the powers and duties of the authorities; to provide for the conveyance of ownership of and operational jurisdiction over certain convention facilities to authorities and to provide for the transfer of certain real and personal property utilized as convention facilities to authorities; to provide for the assumption of certain contracts, bonds, notes, and other evidences of indebtedness and liabilities related to convention facilities by authorities; to authorize the creation of certain funds; to authorize expenditures from certain funds; to finance the acquisition of land and the development of certain convention facilities and of public improvements or related facilities; to provide for the issuance of bonds and notes; to authorize certain investments; to provide for the transfer of public employees to the employment of authorities; to provide for the allocation of liabilities related to employee benefits; to protect certain rights of local government employees; and to impose certain powers and duties upon state and local departments, agencies, and officers.

History: 2008, Act 554, Eff. Jan. 20, 2009.

The People of the State of Michigan enact:

141.1351 Short title.

Sec. 1. This act shall be known and may be cited as the "regional convention facility authority act".

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1353 Legislative findings.

Sec. 3. The legislature finds and declares all of the following:

(a) That there exists in this state a continuing need to strengthen and revitalize the economy of this state and of local units of government in this state and that it is in best interests of this state and local units of government in this state to promote tourism and convention business in order to assist in the prevention of unemployment and the alleviation of the conditions of unemployment, to preserve existing jobs, to facilitate economic development, and to create new jobs to meet employment demands.

(b) That it is necessary for the promotion of general welfare and a valid public purpose to assist and encourage the acquisition, construction, improvement, enlargement, renewal, replacement, repairing, financing, furnishing, and equipping of regional convention facilities and the real property on which they are located, to refinance these activities, and to enter into contracts and procure services necessary and appropriate for the development and ongoing management and operation of regional convention facilities in an efficient and effective manner.

(c) That a regional convention facility authority created under this act and the powers conferred by this act constitute a necessary program and serve a necessary public purpose.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1355 Definitions.

Sec. 5. As used in this act:

(a) "Authority" means a regional convention facility authority created under section 7.

(b) "Board" means the board of directors of an authority.

(c) "Convention facility" means all or any part of, or any combination of, a convention hall, auditorium, arena, meeting rooms, exhibition area, and related adjacent public areas that are generally available to the public for lease on a short-term basis for holding conventions, meetings, exhibits, and similar events, together with real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for holding conventions, meetings, exhibits, and similar events, together with appurtenant property, including covered walkways, parking lots, or structures, necessary and convenient for use in connection with the convention facility. Convention facility includes an attached arena with a seating capacity not exceeding 13,000. Convention facility does not include any arena with a seating capacity exceeding 13,000.

(d) "Develop" means to plan, acquire, construct, improve, enlarge, maintain, renew, renovate, repair, replace, lease, equip, furnish, market, promote, manage, or operate.

(e) "Fiscal year" means an annual period that begins on October 1 and ends on September 30 or the fiscal year for an authority established by the board of the authority.

(f) "Legislative body" means the elected body of a local government possessing the legislative power of the local government.

(g) "Local chief executive officer" means the mayor or city manager of a city or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(h) "Local government" means a county or city. For purposes of sections 17(1)(t) and 19 other than section 19(1)(f), local government includes a building authority or downtown development authority created by a county or city under 1975 PA 197, MCL 125.1651 to 125.1681.

(i) "Qualified city" means a city with a population of more than 700,000 according to the most recent decennial census that contains a qualified convention facility.

(j) "Qualified county" means a county that contains a qualified city.

(k) "Qualified convention facility" means a publicly owned convention facility with not less than 600,000 square feet of usable exhibition area and that is located in a qualified city.

(*l*) "Qualified metropolitan area" means a geographic area of this state that includes a qualified city, a qualified county, and the 2 counties bordering the qualified county with the largest populations according to the most recent decennial census.

(m) "Transfer date" means the earlier of the following:

(*i*) The date 90 days after the creation of an authority under section 7 on which the right, title, interest, ownership, and control of a qualified convention facility are conveyed and transferred from a qualified city to an authority, only if the transfer is not disapproved as provided under section 19(1).

(*ii*) The effective date of a lease agreement providing for the lease of a qualified convention facility to an authority created under section 7 as provided under section 19(1). In the event that the qualified convention facility is transferred to the authority by way of a lease, references in this act to transfer of title or conveyance of title shall be interpreted to mean the effectuation of the transfer or conveyance by way of a lease and not in fee.

History: 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.

141.1357 Qualified metropolitan area; creation of authority; authority as municipal public body corporate and politic; powers, duties, and jurisdictions; name; transfer of qualified convention facility from qualified city to authority; exemption from taxes and special assessments; presumption of validity.

Sec. 7. (1) For an area of this state that is a qualified metropolitan area on the effective date of this act, an authority is created for the qualified metropolitan area on the effective date of this act. For an area of this state that becomes a qualified metropolitan area after the effective date of this act, an authority is created for the qualified metropolitan area on the date the area became a qualified metropolitan area. An authority created under this section shall be a municipal public body corporate and politic and a metropolitan authority authorized by section 27 of article VII of the state constitution of 1963 and shall possess the powers, duties, and jurisdictions vested in the authority under this act and other laws. The authority shall not be an authority or agency of this state. The name of an authority created under this section shall include the name of the qualified city located within the qualified metropolitan area and the phrase "regional convention facility authority".

(2) Before the transfer date, an authority may organize and exercise all powers, duties, and jurisdictions granted under this act, except the powers, duties, and jurisdictions related to the management and operation of a qualified convention facility. On the transfer date, an authority is vested with the additional powers, duties, and jurisdictions under this act related to the management, operation, and development of a qualified convention facility.

(3) It is the intent of the legislature that the transfer or lease of a qualified convention facility from a qualified city to an authority under this act and any payment required under section 19(9) represents at least a fair exchange of value for value for the qualified city considering, without limitation, all of the following:

(a) The net value of the qualified convention facility prior to the transfer date after deducting deferred maintenance obligations, operational deficits, repair or expansion needs, and other liabilities related to the qualified convention facility that are obligations of the qualified city.

(b) The benefits to the qualified city resulting from the transfer or lease of the qualified convention facility to the authority, including, but not limited to, assumption or payment of debt obligations of the qualified city by the authority, reductions in costs, liabilities or other obligations of the qualified city, additional revenues or other money not otherwise available for the qualified convention facility, and the positive economic impact to the qualified city likely to be generated by the operation of the qualified convention facility by the authority or any expansion or improvement of the qualified convention facility by the authority, especially economic impact resulting in the creation or retention of jobs and capital investment.

(c) Any bond proceeds, debt service payments, or other money payable directly or indirectly to the qualified city after the transfer date under this act, the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, or the health and safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

(4) The property of an authority created under this act is public property devoted to an essential public and governmental purpose. Income of the authority is for a public and governmental purpose.

(5) Except as otherwise provided in this subsection, the property of the authority created under this act and its income, activities, and operations are exempt from all taxes and special assessments of this state or a political subdivision of this state. Property of an authority and its income, activities, and operations that are leased to private persons are not exempt from any tax or special assessment of this state or a political subdivision of this state. Property of an authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or other law of this state authorizing the taxation of real or personal property. An authority is an entity of government for purposes of section 4a(1)(a) of the general sales tax act, 1933 PA 167, MCL 205.54a, and section 4(1)(h) of the use tax act, 1937 PA 94, MCL 205.94.

(6) The validity of the creation of an authority shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation of the authority under this section. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner.

(7) The validity of the transfer or lease of a qualified convention facility to an authority under this act shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 30 days after the effective date of the amendatory act that added this subsection, or for a metropolitan area that becomes a qualified metropolitan area after the effective date of the amendatory act that added this subsection, 75 days after the date on which the metropolitan area becomes a qualified metropolitan area. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner.

History: 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.

141.1359 Board of directors; membership; qualifications; "local government" defined; terms; vacancy; filing of appointment; oath; compensation; individuals prohibited from appointment.

Sec. 9. (1) An authority created under this act shall be directed and governed by a board of directors consisting of 5 members. The members of an authority board shall include all of the following:

(a) One individual appointed by the governor of this state with the advice and consent of the senate.

(b) One individual appointed by the local chief executive officer of the qualified city.

(c) One individual appointed by the local chief executive officer of the qualified county.

(d) One individual appointed by the local chief executive officer of the county bordering the qualified county with the highest population according to the most recent decennial census bordering the qualified county.

(e) One individual appointed by the local chief executive officer of the county bordering the qualified county with the second highest population according to the most recent decennial census.

(2) Board members appointed under this section shall possess business, financial, or professional experience relevant to the operation of a corporation or a convention facility. No board member shall be an employee or officer of any local government or of this state. For purposes of this subsection, "local government" includes any county, township, city, village, or intergovernmental entity in this state.

(3) Except as otherwise provided in this subsection, board members shall be appointed for a term of 6 years. Initial appointments under subsection (1) shall be made within 30 days of the creation of the authority. Of the board members initially appointed under subsection (1), the members appointed under subsection (1)(a) and (c) shall be appointed for a term expiring on the second August 31 following the creation of the authority, the members appointed under subsection (1)(b) and (d) shall be appointed for a term expiring on the third August 31 following the creation of the authority, the member appointed under subsection (1)(e) shall be appointed for a term expiring on the fourth August 31 following the creation of the authority. If a vacancy occurs on the board other than by expiration of a term, the vacancy shall be filled in the same manner as the original appointment for the remainder of the term. Board members may continue to serve until a successor is appointed and qualified.

(4) Each officer appointing a board member under this section shall file the appointment with the secretary of state and the county clerk of each county in the qualified metropolitan area. Notwithstanding any law or local charter provision to the contrary, appointments by an officer are not subject to approval or rejection by a

legislative body.

(5) Upon appointment to a board under this section, and upon taking and filing of the oath of office required by section 1 of article XI of the state constitution of 1963, a board member shall enter office and exercise the duties of the office of board member.

(6) Board members shall serve without compensation but may be reimbursed for actual and necessary expenses incurred while attending board meetings or performing other authorized official business of the authority.

(7) An individual who is not of good moral character or who has been indicted or charged with, convicted of, pled guilty or no contest to, or forfeited bail concerning a felony under the laws of this state, any other state, or the United States shall not be appointed or remain as a member of the board.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1361 Board; meeting; election of chairperson and officers; actions requiring unanimous consent; business conducted at public meeting; availability of records and documents to public; system of accounts; annual audit; budget; contracts; use of competitive procurement methods; exceptions; purchases; preferences; procedures to monitor performance of contracts; procurement policy; employment of personnel; certain actions prohibited; citizens advisory council.

Sec. 11. (1) Within not more than 30 days following appointment of the members of a board, the board shall hold its first meeting at a date and time determined by the individual appointed under section 9(1)(a). The board members shall elect from among the board members an individual to serve as chairperson of the board and may elect other officers as the board considers necessary. All officers shall be elected annually by the board. All actions of the board under this act shall require the unanimous consent of all serving members of the board, excluding any members prohibited from voting on an action due to a conflict of interest under section 15.

(2) The business of the board shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. A special meeting of the board may be called by the chairperson of the board or as provided in bylaws adopted by the board. Notice of a special meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A board shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the authority in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) A board shall provide for a system of accounts for the authority to conform to a uniform system required by law and for the auditing of the accounts of an authority. The board shall obtain an annual audit of the authority by an independent certified public accountant and report on the audit and auditing procedures in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit also shall be in accordance with generally accepted government auditing standards and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(5) Before the beginning of each fiscal year, a board shall cause to be prepared a budget for the authority containing an itemized statement of the estimated current operational expenses and the expenses for capital outlay including funds for the operation and development of convention facilities under the jurisdiction of the board, including the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing during the next fiscal year or that have previously matured and are unpaid, and an estimate of the estimated revenue of the authority from all sources for the next fiscal year. The board shall adopt a budget as for the fiscal year in accordance with the uniform budget and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(6) A board shall provide for the purchase of, the contracting for, and the providing of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by the authority to efficiently and effectively meet the needs of the authority using competitive procurement methods to secure the best value for the authority. The board shall make all discretionary decisions concerning the solicitation, award, amendment, cancellation, and appeal of authority contracts. A board shall provide for the

acquisition of professional services, including, but not limited to, architectural services, engineering services, surveying services, accounting services, services related to the issuance of bonds, and legal services, in accordance with a competitive, qualifications-based selection process and procedure for the type of professional service required by the authority. An authority is not required to use competitive bidding when acquiring proprietary services, equipment, or information available from a single source, such as a software license agreement. An authority may enter into a cooperative purchasing agreement with the federal government, this state, or other public entities for the purchase of goods or services necessary for the authority. An authority may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased unless otherwise prohibited by law. In all purchases made by the authority, all other things being equal, preference shall be given first to products manufactured or services offered by firms based in the authority's qualified metropolitan area, including, but not limited to, the qualified city and each county in the qualified metropolitan area, and next to firms based in this state, if consistent with applicable law. The authority shall actively solicit lists of potential bidders for authority contracts from each qualified city and each county in the qualified metropolitan area. Except as otherwise provided in this section, the authority shall utilize competitive solicitation for all purchases authorized under this act unless 1 or more of the following apply:

(a) Procurement of goods or services is necessary for the imminent protection of public health or safety or to mitigate an imminent threat to public health or safety, as determined by the authority or its chief executive officer.

(b) Procurement of goods or services is for emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property.

(c) Procurement of goods or services is in response to a declared state of emergency or state of disaster under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

(d) Procurement of goods or services is in response to a declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

(e) Procurement of goods or services is in response to a declared state of energy emergency under 1982 PA 191, MCL 10.81 to 10.89.

(f) Procurement of goods or services is under a cooperative purchasing agreement with the federal government, this state, or more public entities for the purchase of goods and services necessary at fair and reasonable prices using a competitive procurement method for authority operations.

(g) The value of the procurement is less than $5,000.00, and the board has established policies or procedures to ensure that goods or services with a value of less than $5,000.00 are purchased by the board at fair and reasonable prices. Procurement of goods or services with a value of less than $5,000.00 may be negotiated with or without using competitive bidding as authorized in a procurement policy adopted by the board.

(7) A board may not enter into any cost plus construction contract unless all of the following apply:

(a) The contract cost is less than $50,000.00.

(b) The contract is for emergency repair or construction caused by unforeseen circumstances.

(c) The repair or construction is necessary to protect life or property.

(d) The contract complies with requirements of applicable state or federal law.

(8) The board shall adopt a procurement policy consistent with the requirements of this act and federal and state laws relating to procurement. The procurement policy shall include a requirement for the authority to use its best efforts within the competitive solicitation requirements of this section to achieve fairness in the number and value of contracts for goods or services entered into by the authority with firms based in the qualified city and each county within the qualified metropolitan area, consistent with applicable law. The board shall adopt a policy to govern the control, supervision, management, and oversight of each contract to which the authority is a party. The board shall adopt procedures to monitor the performance of each contract including, but not limited to, a contract that exists on the transfer date, to assure execution of the contract within the budget and time periods provided under the contract. The monitoring shall include oversight as to whether the contract is being performed in compliance with the terms of the contract, this act, and federal and state law procurement law. The chief executive officer or other authorized employee of an authority shall not sign or execute a contract until the contract is approved by the board. A board for an authority shall establish policies to ensure that the authority does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense incident to the application for or performance of a contract or subcontract with a governmental entity in this state. A board for an authority shall establish policies to ensure that the authority does not enter into a procurement or employment contract with a person who has been convicted of a criminal offense, or held liable in a civil proceeding, that negatively reflects on the person's business integrity, based on a finding of embezzlement, theft, forgery, bribery, falsification or destruction of

records, receiving stolen property, or violation of state or federal antitrust statutes, or similar laws. The authority shall prepare an annual report to the board, the qualified city, and each county within the qualified metropolitan area detailing all contracts entered into by the authority during the immediately preceding fiscal year. As used in this subsection, if a person is a business entity, person includes affiliates, subsidiaries, officers, directors, managerial employees, and any person who, directly or indirectly, holds a pecuniary interest in that business entity of 20% or more. Nothing in this subsection shall be construed as creating a quota or set-aside for any qualified city or any county in the qualified metropolitan area.

(9) A board may employ personnel as the board considers necessary to assist the board in performing the power, duties, and jurisdictions of the authority, including, but not limited to, employment of a chief executive officer as authorized under section 13. The board shall adopt an employment policy that includes a requirement for the authority to use best efforts to achieve fairness in the hiring of employees from among residents of the qualified city and each county within the qualified metropolitan area, consistent with applicable law. Nothing in this subsection shall be construed as creating a quota or set-aside for any qualified city or any county in the qualified metropolitan area.

(10) A board shall establish policies to assure that the board and the authority shall not do either of the following:

(a) Fail or refuse to hire, recruit, or promote; demote; discharge; or otherwise discriminate against a person with respect to employment, compensation, or a term, condition, or privilege of employment, or a contract with the authority because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job, position, or contract.

(b) Limit, segregate, or classify an employee, a contractor, or applicant for employment or a contract in a way that deprives or tends to deprive the employee, contractor, or applicant of an employment opportunity or otherwise adversely affects the status of an employee, contractor, or applicant because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position.

(11) Not less than 60 days after the transfer date, an authority shall establish a citizens advisory council to provide public input and advise the board on the impact of redevelopment and management of a qualified convention facility upon the qualified city and each county within the qualified metropolitan area. The advisory council shall consist of 8 members, including 1 resident of the qualified city appointed by the local chief executive officer of the qualified city, 1 resident of the qualified city appointed by the legislative body of the qualified city, 1 county resident appointed as a council member by each local chief executive officer for each county within the qualified metropolitan area, and 1 county resident appointed as a council member by the legislative body for each county within the qualified metropolitan area. An elected state or local official is not eligible to serve as a member of the citizens advisory council. Members of the advisory council shall be appointed for terms of 4 years. A vacancy on the advisory council arising other than by expiration of a term shall be filled for the remainder of a term in the same manner as the original appointment. The business of the advisory council shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The advisory council shall adopt bylaws consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings. After organization, the advisory council shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The advisory council shall keep a written or printed record of each meeting, which record and any other document or record prepared, owned, used, in the possession of, or retained by the advisory council in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. An advisory council shall organize and make its own policies and procedures and shall adopt bylaws not inconsistent with this act governing its operations. The advisory council may request and shall receive from the authority information and technical assistance relating to the development and management of the qualified convention facility. Failure of the advisory council to organize, meet, or perform statutory functions shall not prevent the board or the authority from performing authorized activities. A member of the citizens advisory council shall not be compensated for being a member nor shall a member be reimbursed for any expenses incurred as a member of the citizens advisory council.

History: 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.

141.1363 Chief executive officer; appointment; compensation; duties; responsibilities; service; powers; bond; certain conduct prohibited.

Sec. 13. (1) A board may appoint and fix the compensation of a chief executive officer for the authority. If the board appoints a chief executive officer, the board shall prescribe the duties and responsibilities of the chief executive officer in addition to any duties and responsibilities imposed upon the chief executive officer under this act. A chief executive officer of an authority shall serve at the pleasure of the board.

(2) A chief executive officer shall supervise, and be responsible for, the day-to-day operation of the authority, including the control, supervision, management, and oversight of convention facilities, the issuance of bonds and notes approved by the board, the negotiation and establishment of compensation and other terms and conditions of employment for any employees of the authority, the negotiation, supervision, and enforcement of contracts entered into by the authority and approved by the board, and the supervision of contractors of the authority in their performance of their duties. A board may delegate to the chief executive officer of an authority the power and responsibility to execute and deliver, and sign for, contracts, leases, obligations, and other instruments as have been approved by the board.

(3) A chief executive officer of an authority shall have all powers as are incident to the performance of his or her duties that are prescribed by this act or by the board. All actions of the chief executive officer of an authority shall be in conformance with the policies of the board and in compliance with applicable law.

(4) A board shall require the chief executive officer of an authority and any treasurer or chief financial officer of the authority to post a suitable bond of not less than $50,000.00 issued by a responsible bonding entity, with the cost of the premium of the bond paid by the authority.

(5) All actions of the chief executive officer of an authority shall be in conformance with policies adopted by the board and in compliance with applicable law.

(6) The board of an authority shall not authorize the chief executive officer of the authority to do any of the following:

(a) Appoint a successor to the chief executive officer.

(b) Approve of a contract or a contract amendment.

(c) Appoint or hire legal counsel for the board.

(d) Prescribe ethical standards for the board or authority employees.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1365 Board member or officer, appointee, or employee of authority; discharge of duties; nonpartisan; reliance on certain opinions, reports, or statements; adoption of bylaws; personal liability; insurance; conflicts of interest; ethics manual; removal of board member from office; filing financial disclosure statement; rules; interest in or employment by entity after termination of board membership or employment.

Sec. 15. (1) A board member or an officer, employee, or agent of an authority shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a board member or an officer, employee, or agent of an authority, when acting in good faith, may rely upon any of the following:

(a) The opinion of counsel for the authority.

(b) The report of an independent appraiser selected by the board.

(c) Financial statements of the authority represented to the member of the board, officer, employee, or agent to be correct by the officer of the authority having charge of its books of account or stated in a written report by the state auditor general or a certified public accountant, or a firm of certified accountants, to reflect the financial condition of the authority.

(2) A board shall organize and make its own policies and procedures and shall adopt bylaws not inconsistent with this act governing its operations. The board shall meet at the call of the chairperson and as may be provided in the bylaws.

(3) A member of a board or an officer, appointee, or employee of an authority shall not be subject to personal liability when acting in good faith within the scope of his or her authority or on account of liability of the authority, and the board may indemnify a member of the board or an officer, appointee, or employee of the authority against liability arising out of the discharge of his or her official duties. An authority may indemnify and procure insurance indemnifying members of the board and other officers and employees of the authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority. The authority also may purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a member of the board or an officer or employee of the authority, whether or not the authority would have the

power to indemnify the person against that liability under this section. An authority, pursuant to bylaw, contract, agreement, or resolution of its board, may obligate itself in advance to indemnify persons.

(4) Board members and officers and employees of an authority are public servants subject to 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. A board shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The board shall require that a board member or chief executive officer of the authority with a direct interest in any matter before the authority disclose the board member's or officer's interest and any reasons reasonably known to the board member or officer why the transaction may not be in the best interest of the public or the authority before the board takes any action with respect to the matter. The disclosure shall become part of the record of an authority's proceedings.

(5) An authority shall establish an ethics manual governing the conducting of authority business and the conduct of authority officers and employees. An authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving board members and officers or employees of the authority. At a minimum, the policies shall include compliance by each board member and officer or employees who regularly exercises significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that could reasonably be expected to create a conflict of interest.

(b) Withdrawal by an employee, officer, or board member from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that employee or member.

(c) Annual public financial disclosure of significant financial interests as provided under this act.

(6) The appointing authority of a board member may remove the board member from office for gross neglect of duty, corrupt conduct in office, or any other misfeasance or malfeasance in office.

(7) Each member of the board of an authority, the chief executive officer, and each key employee as determined by the board shall file with the secretary of state a financial disclosure statement listing assets and liabilities, property and business interests, and sources of income of the member, chief executive officer, and each key employee and any of their spouses in a form determined by the secretary of state. The financial disclosure statement shall be under oath and shall be filed at the time of appointment or employment and annually thereafter. The secretary of state may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the implementation of this subsection.

(8) A member of the board of an authority or employee of an authority shall not hold any direct or indirect interest in, be employed by, or enter into a contract for services with any entity doing business with the authority for a period of 2 years after the date his or her membership on the board terminates or his or her employment with the authority terminates.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1367 Authority; powers and duties; levy of tax.

Sec. 17. (1) Except as otherwise provided in this act, an authority may do all things necessary or convenient to implement the purposes, objectives, and provisions of this act and the purposes, objectives, and jurisdictions vested in the authority or the board by this act or other law, including, but not limited to, all of the following:

(a) Adopt and use a corporate seal.

(b) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(c) Sue and be sued in its own name and plead and be impleaded.

(d) Borrow money and issue bonds and notes according to the provisions of this act.

(e) Make and enter into contracts, agreements, or instruments necessary, incidental, or convenient to the performance of its duties and execution of its powers, duties, and jurisdictions under this act with any federal, state, local, or intergovernmental governmental agency or with any other person or entity, public or private, upon terms and conditions acceptable to the authority.

(f) Engage in collective negotiation or collective bargaining and enter into agreements with a bargaining representative as provided by 1947 PA 336, MCL 423.201 to 423.217.

(g) Solicit, receive, and accept gifts, grants, labor, loans, contributions of money, property, or other things of value, and other aid or payment from any federal, state, local, or intergovernmental government agency or from any other person or entity, public or private, upon terms and conditions acceptable to the authority, or participate in any other way in a federal, state, local, or intergovernmental government program.

(h) Make application for and receive loans, grants, guarantees, or other financial assistance in aid of a convention facility from any state, federal, local, or intergovernmental government or agency or from any other source, public or private, including, but not limited to, financial assistance for purposes of developing, planning, constructing, improving, and operating a convention facility.

(i) Procure insurance or become a self-funded insurer against loss in connection with the property, assets, or activities of the authority.

(j) Indemnify and procure insurance indemnifying board members from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority.

(k) Invest money of the authority, at the discretion of the board, in instruments, obligations, securities, or property determined proper by the board and name and use depositories for authority money. Investments shall be made consistent with an investment policy adopted by the board that complies with this act and 1943 PA 20, MCL 129.91 to 129.96.

(*l*) Contract for goods and services as necessary and as provided under this act. An authority may contract with a management firm, either corporate or otherwise, to operate a qualified convention facility, under the supervision of the authority.

(m) Employ legal and technical experts, other officers, agents, employees, or other personnel, permanent or temporary, as considered necessary by the board as provided under this act.

(n) Contract for the services of persons or entities for rendering professional or technical assistance, including, but not limited to, consultants, managers, legal counsel, engineers, accountants, and auditors, as provided under this act.

(o) Establish and maintain an office.

(p) Acquire by gift, devise, transfer, exchange, purchase, lease, or otherwise on terms and conditions and in a manner the authority considers proper property or rights or interests in property. Property or rights or interests in property acquired by an authority may be by purchase contract, lease purchase, agreement, installment sales contract, land contract, or otherwise. The acquisition of any property by an authority for a convention facility in furtherance of the purposes of the authority is for a public use, and the exercise of any other powers granted to the authority is declared to be public, governmental, and municipal functions, purposes, and uses exercised for a public purpose and matters of public necessity.

(q) Hold, clear, remediate, improve, maintain, manage, protect, control, sell, exchange, lease, or grant easements and licenses on property or rights or interests in property that the authority acquires, holds, or controls.

(r) Except as provided in section 19(13), convey, sell, transfer, exchange, lease, or otherwise dispose of property or rights or interest in property, excluding the sale or transfer of a qualified convention facility, to any person or entity on terms and conditions, and in a manner and for consideration the authority considers proper, fair, and valuable.

(s) Develop a convention facility.

(t) Assume and perform the obligations and covenants of a local government related to a qualified convention facility.

(u) Enter into contracts or other arrangements with persons or entities, for granting the privilege of naming or placing advertising on or in all or any portion of a convention facility.

(v) Receive financial or other assistance from a person licensed under section 6 of the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.206.

(w) Establish and fix a schedule of rents, admission fees, or other charges for occupancy, use of, or admission to any convention facility operated by the authority and provide for the collection and enforcement of those rents, admission fees, or other charges.

(x) Adopt reasonable rules and regulations for the orderly, safe, efficient, and sanitary operation and use of a convention facility owned by the authority or under its operational jurisdiction.

(y) Do all other acts and things necessary or convenient to exercise the powers, duties, and jurisdictions of the authority under this act or other laws that related to the purposes, powers, duties, and jurisdictions of the authority.

(2) Notwithstanding any other provision of law to the contrary, an authority shall not have the power to impose or levy a tax.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1369 Transfer of qualified convention facility to authority; resolution disapproving transfer; leasing of qualified convention facility to authority; lease requirements; actions

to occur on transfer date; duties and obligations of authority; certain contracts, agreements, conveyances, rights, obligations, or liabilities as voidable; cancellation or termination of agreement to which local government is party; reversion; agreement to make capital improvements.

Sec. 19. (1) Within 45 days of January 20, 2009 or the date on which a metropolitan area becomes a qualified metropolitan area and prior to a transfer date, the legislative body of the qualified city in which a qualified convention facility is located may disapprove the transfer of the qualified convention facility to the authority by adopting a resolution disapproving the transfer. If the transfer is not disapproved, the qualified convention facility is transferred to the authority on the ninetieth day after January 20, 2009 or the date on which a convention facility becomes a qualified convention facility. If the transfer is disapproved, not later than August 1, 2009 or 75 days after a later date on which a metropolitan area becomes a qualified metropolitan area, the qualified city in which a qualified convention facility is located may disapprove leasing the qualified convention facility to the authority by adopting a resolution disapproving a lease of the qualified convention facility to the authority. The resolution shall be adopted and effective as provided by law, including any charter of the qualified city. If a resolution disapproving the lease is adopted and effective, an authority created for the qualified metropolitan area in which the qualified convention facility is located is dissolved. If the lease is not disapproved within the period provided, the qualified convention facility will be considered leased to the authority and the local chief executive officer of the qualified city and the authority shall enter into a lease agreement, provisions of which are prescribed in this act, and shall provide for the lease of the qualified convention facility to the authority for a term of not less than 30 years or the time period necessary to repay the outstanding obligations issued by the authority under sections 25 and 27, whichever is earlier. The lease shall require the authority to renovate, rehabilitate, and expand the qualified convention facility. The lease shall be effective 238 days after January 20, 2009 or the date on which a metropolitan area becomes a qualified metropolitan area. All of the following shall occur on a transfer date:

(a) All right, title, and interest of a local government in and to a qualified convention facility located in a qualified metropolitan area shall by operation of this act be conveyed and transferred or leased from the local government to the authority for the qualified metropolitan area, and the authority shall receive, succeed to, and assume the exclusive right, responsibility, and authority to own or lease, occupy, operate, control, develop, and use the qualified convention facility from and after the transfer date, including, but not limited to, all real property, buildings, improvements, structures, easements, rights of access, and all other privileges and appurtenances pertaining to the qualified convention facility, subject only to those restrictions imposed by this act. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(b) All right, title, and interest in and to the fixtures, equipment, materials, furnishings, and other personal property of a local government owned or controlled by the local government and used for purposes of the qualified convention facility by the local government shall by operation of this act be conveyed and transferred or leased from the local government to the authority for the qualified metropolitan area, and the authority shall receive, succeed to, and assume the exclusive right, responsibility, and authority to possess and control the property from and after the transfer date. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(c) All licenses, permits, approvals, or awards of a local government related to the possession, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of this act be conveyed and transferred from the local government to the authority for the qualified metropolitan area and be assumed by the authority. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(d) All grant agreements, grant preapplications, grant applications, rights to receive the balance of any funds payable under the agreements or applications, the right to receive any amounts payable from and after the transfer date, and the benefits of contracts or agreements of a local government related to the possession, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of this act be conveyed and transferred from the local government to the authority for the qualified metropolitan area and be assumed by the authority. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(e) All of the duties, liabilities, responsibilities, and obligations of a local government related to the possession, occupancy, operation, control, development, or use of a qualified convention facility by the local government shall by operation of this act be conveyed and transferred from the local government to the authority for the qualified metropolitan area and assumed by the authority, except for any liabilities, responsibilities, or obligations that are contested in good faith by the authority. If a qualified convention facility is leased to an authority under this subsection, this subdivision shall apply while the lease agreement is effective.

(f) An authority for a qualified metropolitan area shall assume all of the outstanding securities of the local government that are special limited obligations payable from and secured by a lien on distributions received under the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, and were originally issued to finance the acquisition or construction of, development of, or improvements to the qualified convention facility conveyed and transferred to the authority for the qualified metropolitan area under this section, and the authority may refund or defease the securities. If the authority refunds the outstanding securities assumed under this subsection, that refunding shall be considered, as a matter of law, to be necessary to eliminate requirements of covenants applicable to the existing outstanding securities.

(2) An authority shall assume, accept, or become liable for lawful agreements, obligations, promises, covenants, commitments, and other requirements of a local government relating to operating a qualified convention facility conveyed and transferred under this section, except as provided in subsection (4). An authority shall perform all of the duties and obligations and shall be entitled to all of the rights of a local government and under any agreements expressly assumed and accepted by the authority related to the transfer of a qualified convention facility from the local government to the authority under this section. If a qualified convention facility is leased to an authority under subsection (1), this subsection shall apply while the lease agreement is effective.

(3) The local chief executive officer of a local government from which the rights, responsibility, and authority to own, occupy, operate, control, develop, and use a qualified convention facility are conveyed and transferred or leased from the local government to an authority for a qualified metropolitan area under this section shall execute the instruments of conveyance, assignment, and transfer or lease or other documents as may, in the authority's and the officer's reasonable judgment, be necessary or appropriate to recognize, facilitate, or accomplish the transfer or lease of the qualified convention facility from the local government to the authority under this section.

(4) An authority for a qualified metropolitan area shall not assume any unfunded obligations of a local government transferring or leasing a qualified convention facility under this section to provide pensions or retiree health insurance. Upon request by the authority, the local government shall provide the authority with a statement of the amount of the unfunded obligations, determined by a professional actuary acceptable to the authority.

(5) All lawful actions, commitments, and proceedings of a local government made, given, or undertaken before the transfer date and assumed by an authority under this section are ratified, confirmed, and validated upon assumption. All actions, commitments, or proceedings of the local government relating to a qualified convention facility in the process of being undertaken by, but not yet a commitment or obligation of, the local government regarding the qualified convention facility may, from and after the date of assumption by the authority under this section, be undertaken and completed by the authority in the manner and at the times provided in this act or other applicable law and in any lawful agreements made by the local government before the date of assumption by the authority under this section.

(6) The exclusive right and authorization to possess, occupy, operate, control, develop, and use a qualified convention facility transferred or leased under this section shall include, but not be limited to:

(a) Possession and operational jurisdiction over all real property of the qualified convention facility, subject to any liens of record and legal restrictions and limitations on the use of the property.

(b) The local government's right, title, and interest in, and all of the local government's responsibilities arising under, operating leases and concessions relating to a qualified convention facility.

(7) The transfers described under this section shall include, but need not be limited to, all of the following:

(a) All contracts with licensees, franchisees, tenants, concessionaires, and leaseholders.

(b) All operating financial obligations secured by revenues and fees generated from the operations of the qualified convention facility.

(c) All cash balances and investments relating to or resulting from operations of the qualified convention facility, all funds held under an ordinance, resolution, or indenture related to or securing obligations of the local government assumed by the authority, and all of the accounts receivable or choses in action arising from operations of the qualified convention facility. Fund transfers under this subdivision are limited to funds received after the transfer date and funds necessary to pay obligations related to the operation of the qualified convention facility accrued before the transfer date and not paid by the local government.

(d) All office equipment, including, but not limited to, computers, records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, and general administration.

(8) The transfer or lease of the real and personal property and operational jurisdiction over a qualified

convention facility to an authority may not in any way impair any contracts with licensees, franchisees, vendors, tenants, bondholders, or other parties in privity with the local government that owned a qualified convention facility transferred or leased to an authority under this section, if the contracts were not entered into or modified in violation of this act.

(9) From and after the transfer date, a local government from which a qualified convention facility has been transferred or leased shall be relieved from all further costs, responsibility, and liability arising from, or associated with, control, operation, development, and maintenance of the qualified convention facility. The local government shall continue to be responsible for all costs associated with local municipal services, including police, fire, and emergency medical services, without any additional compensation from the authority. An authority created prior to the effective date of the amendatory act that added subsection (14) shall provide for the payment of compensation of $20,000,000.00 to the qualified city as compensation for any revenue otherwise payable to the qualified city from parking facilities operated by the qualified city at the qualified convention facility and for other costs incurred by the qualified city associated with the transfer or lease of the qualified convention facility to the authority under this section. If the transfer or lease of parking facilities to the authority would impair covenants of bonds issued by the local government that owns the qualified convention facility to finance the parking facilities, the authority and the local government may enter into an agreement providing for the local government to retain title to and control of the parking facilities and revenue generated by the parking facilities until the compensation of $20,000,000.00 is paid by the authority to the local government to avoid a default of bond covenants by the local government. If a qualified convention facility is leased to an authority under subsection (1), this subsection shall apply while the lease agreement is effective.

(10) A local government that owns a qualified convention facility subject to transfer or lease under this section or that owned a qualified convention facility transferred to an authority under this section shall comply with all of the following, before and after the transfer date:

(a) Refrain from any action to sell, transfer, or otherwise dispose of a qualified convention facility other than to the authority or incur new or expanded obligations related to a qualified convention facility, without the consent of the authority.

(b) Refrain from any approval of or material modification to any collective bargaining agreement applicable to local government employees employed at or assigned to the qualified convention facility or to terms of employment for employees at or assigned to the qualified convention facility. Any approval or modification subject to this subsection shall be null and void.

(c) Refrain from any action that would impair the authority's exercise of the powers granted to the authority under this act or that would impair the efficient operation and management of the qualified convention facility by the authority.

(d) Take all actions reasonably necessary to cure any defects in title to the qualified convention facility and related property transferred or leased under this section, including, but not limited to, providing documents, records, and proceedings in respect of title.

(e) At the request of an authority, grant any license, easement, or right-of-way in connection with the qualified convention facility to the extent the authority has not been empowered to take these actions.

(f) Upon creation of an authority for the qualified metropolitan area in which the local government is located and before the transfer date, the local government shall conduct operations, maintenance, and repair of the convention facility in the ordinary and usual course of business.

(11) Any contract, agreement, lease, sale, disposition, transfer, or other conveyance, easement, license, right, obligation, debt, or liability assumed, approved, entered into, amended, or modified in violation of this section shall be voidable as a matter of law to the extent that the authority would otherwise assume, become party to or transferee of, or otherwise be obligated under the contract, agreement, lease, sale, disposition, transfer, conveyance, easement, license, right, obligation, debt, or liability.

(12) Unless otherwise provided in this act, the local chief executive officer of a local government that owns a qualified convention facility subject to transfer or lease under this section is authorized and shall take all reasonable steps to cancel or terminate any agreement to which the local government is a party that relates to the qualified convention facility and meets all the following criteria:

(a) The agreement relates to the qualified convention facility and the authority has not expressly assumed or accepted the agreement under subsection (2).

(b) The agreement provides for cancellation or termination.

(c) In the absence of cancellation or termination, the authority would become a party to the agreement by succession, assignment, operation of law, or any other involuntary means.

(13) If real property transferred from a qualified city to an authority under this section is no longer used by the authority for the purpose of maintaining or operating a convention facility as determined by a vote of the

board or a lease agreement providing for the lease of the qualified convention facility is no longer effective, all right, title, and interest of the authority in the real property shall revert from the authority to the qualified city and upon payment by the qualified city to the authority of an amount equal to the compensation paid to the qualified city under subsection (9).

(14) After the creation of an authority for a qualified metropolitan area and before the transfer date, the local chief executive officer of the qualified city that owns or operates a qualified convention facility and the authority may enter into an agreement authorizing the qualified city to make capital improvements to the qualified convention facility, including, but not limited to, electrical system improvements, with costs of the management, design, and construction of capital improvements incurred by the qualified city in an amount not to exceed $3,000,000.00 to be reimbursed by the authority with the proceeds of bonds issued by the authority as provided in the agreement. Any reimbursement for capital improvements agreed to by the local chief executive officer and the authority under this subsection shall be in addition to any compensation paid to the qualified city under subsection (9).

History: 2008, Act 554, Eff. Jan. 20, 2009;—Am. 2009, Act 63, Imd. Eff. July 2, 2009.

141.1371 Transfer of employees to authority; reassignment of employees within local government; representation; rights and benefits; effect of transfer on pension benefits or credits.

Sec. 21. (1) The authority, as of the transfer date, immediately shall assume and be bound by any existing collective bargaining agreements applicable to employees of the local government whose employment is transferred to the authority either as a result of the authority's express assumption of the employees or by application of section 19 for the remainder of the term of the collective bargaining agreement. Local government employees whose employment is not transferred to the authority shall be reassigned within the local government, pursuant to the terms of any applicable collective bargaining agreements. A representative of the employees or a group of employees in the local government who represents or is entitled to represent the employees or a group of employees of the local government pursuant to 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employee or group of employees after the employees transfer to the authority. This subsection does not limit the rights of employees, pursuant to applicable law, to assert that a bargaining representative protected by this subsection is no longer their representative. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the authority.

(2) Transferred employees shall not by reason of the transfer have their accrued local government pension benefits or credits diminished. If a transferring employee is not vested in his or her local government pension rights at the time of transfer, his or her posttransfer service with the authority shall be credited toward vesting in any local government retirement system in which the transferring employee participated prior to the transfer, but posttransfer service with the authority shall not be credited for any other purpose under the local government's retirement system, except as provided in subsection (4).

(3) A transferred local government employee described in this section or a person hired by the authority as a new employee after the transfer date may remain or become a participant in the local government retirement system until the authority has established its own retirement system or pension plan. During the period the employee remains or is a participant in the local government system, the employee's posttransfer service with the authority and his or her posttransfer compensation from the authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan.

(4) If the local government maintains a retirement system that provides for continuing participation and benefit accrual by local government employees who transfer their employment to another entity in conjunction with transfer of a local government function to that entity, then the transferred employee may elect to remain a participant in the local government retirement system in lieu of participation in any retirement system or pension plan of the authority. If the transferred employee elects to remain a participant in the local government system, the employee's posttransfer service with the authority and his or her posttransfer compensation from the authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan. Any election to remain in a local government system or plan shall be made within 60 days following the date the authority has established its own retirement system or pension plan and shall be irrevocable. Employees eligible to make the election described in this subsection shall be those employees who immediately before their transfer date were participating in the local government system and who agree to make any employee contributions required for continuing participation in the local government system and also agree to meet all requirements and be subject to all conditions that, from time to time, apply to employees of the local

government who participate in the local government system.

(5) For each employee meeting the requirements of subsection (4) who elects to remain a participant in the local government retirement system, the authority shall, on a timely basis, contribute, as applicable, to the trustees of that retirement system an amount determined by the local government system's actuary to be sufficient to fund the liability for all of that employee's retirement and other postemployment benefits under the system on a current basis, as those liabilities are accrued from and after the transfer date.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1373 Revenue sources; establishment of regional convention facility operating trust fund; expenditures; limitation; financial obligation.

Sec. 23. (1) Except as provided in subsection (3), an authority may raise revenues to fund all of its activities, operations, and investments consistent with its purposes. The sources of revenue available to the authority may include, but are not limited to, any of the following:

(a) Rents, admission fees, or other charges for use of a convention facility which the authority may fix, regulate, and collect.

(b) Federal, state, or local government grants, loans, appropriations, payments, or contributions.

(c) The proceeds from the sale, exchange, mortgage, lease, or other disposition of property that the authority has acquired.

(d) Grants, loans, appropriations, payments, proceeds from repayments of loans made by the authority, or contributions from public or private sources.

(e) Distributions from the convention facility development fund of the state pursuant to the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640.

(f) Investment earnings on the revenues described in subdivisions (a) to (e).

(2) The revenues raised by an authority may be pledged, in whole or in part, for the repayment of bonded indebtedness and other expenditures issued or incurred by the authority.

(3) Notwithstanding any other provision of law to the contrary, an authority shall not have the power to impose or levy a tax.

(4) The board by resolution may establish a regional convention facility operating trust fund for the purpose of accumulating funds to pay for the cost of operating and maintaining a qualified convention facility. Money for operating and maintaining a qualified convention facility, at the authority's discretion, may be provided from this fund or any other money of the authority. The resolution establishing the fund shall include all of the following:

(a) The designation of a person or persons who shall act as the fund's investment fiduciary.

(b) A restriction of withdrawals from the fund solely for the payment of reasonable operating and maintenance expenses of a convention facility and the payment of the expenses of administration of the fund.

(5) An investment fiduciary shall invest the assets of the fund in accordance with an investment policy adopted by the board that complies with section 13 of the public employee retirement system investment act, 1965 PA 314, MCL 38.1133. However, the investment fiduciary shall discharge his or her duties solely in the interest of the authority. The authority may invest the fund's assets in the investment instruments and subject to the investment limitations governing the investment of assets of public employee retirement systems under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140m.

(6) An authority shall not expend more than $279,000,000.00 to develop an expanded or renovated convention facility under this act. Contracts for the development of an expanded or renovated convention facility shall be fixed price contracts and shall not exceed $279,000,000.00 in total.

(7) A financial obligation of an authority is a financial obligation of the authority only and not a financial obligation of this state, a qualified city, a qualified county, or a county bordering a qualified county. A financial obligation of the authority shall not be transferred to this state, a qualified city, a qualified county, or a county bordering a qualified county.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1375 Bonds or municipal securities; issuance; interest rate exchange or swap, hedge, or similar agreements; creation of reserve fund; pledge; filing; issuance and delivery of notes; maturity; use of proceeds; exemptions.

Sec. 25. (1) For the purpose of acquiring, purchasing, constructing, improving, enlarging, furnishing, equipping, reequipping, developing, refinancing, or repairing a convention facility transferred under section 19 or subsequently acquired by an authority, the authority may issue self-liquidating bonds of the authority in accordance with and exercise all of the powers conferred upon public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are a debt of the authority and not a debt of any qualified county, county, qualified city, city, or this state.

(2) The authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred upon municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The authority may issue a bond or municipal security that bears no interest and appreciates as to principal amount. The bonds or municipal securities authorized by this subsection shall be exempt from section 305(2) and (3) of the revised municipal finance act, 2001 PA 34, MCL 141.2305.

(4) All bonds, notes, or other evidences of indebtedness issued by an authority under this act, and the interest on the bonds or other evidences of indebtedness, are free and exempt from all taxation within this state, except for transfer and franchise taxes.

(5) The issuance of bonds, notes, or other evidences of indebtedness by an authority shall require approval of the board.

(6) For the purpose of more effectively managing its debt service, an authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of bonds, notes, or other evidences of indebtedness or in connection with its then outstanding bonds, notes, or other evidences of indebtedness.

(7) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, the authority may create a reserve fund for the payment thereof.

(8) An agreement entered into pursuant to this section shall comply with all of the following:

(a) The agreement is not a debt of the authority entering into the agreement for any statutory or charter debt limitation purpose.

(b) The agreement is payable from general funds of the authority or, subject to any existing contracts, from any available money or revenue sources, including revenues specified by the agreement, securing the bonds, notes, or evidences of indebtedness in connection with which the agreement is entered into.

(9) An authority upon approval by resolution of the authority board may issue notes in anticipation of the proceeds of a proposed authority bond issuance. The authority may pledge for the payment of the principal, interest, or redemption premiums on the notes security from 1 or more of the sources to secure the bonds and the proceeds of the bonds to be issued to refund the notes. The pledge shall be valid and binding from the time made. The security pledged and received by an authority is immediately subject to the lien of the pledge without physical delivery of the security or further action. The lien is valid and binding against a person with a claim of any kind against the authority whether or not the person has notice of the pledge. Neither the resolution, trust indenture, nor any other instrument creating a pledge must be filed or recorded to establish and perfect a lien or security interest in the property pledged. In the resolution, the authority shall declare the necessity of the notes, the purpose of the notes, the principal amount of the notes to be issued, and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the notes. The issuance and delivery of the notes shall be conclusive as to the existence of the facts entitling the notes to be issued in the principal amount of the notes and shall not be subject to attack. The notes shall mature not more than the earlier of 3 years from the date of issuance or 90 days after the expected date of issuance of the bonds in anticipation of which the notes are issued and may bear no interest or interest at a fixed or variable rate or rates of interest per annum. The proceeds of notes issued under this subsection shall be used only for the purpose to which the proceeds of the bonds may be applied, the costs of issuance of the notes, and the payment of principal and interest on the notes. Notes issued under this section are exempt from the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1377 Evidences of indebtedness or liability as contract; assumption and performance of obligations.

Sec. 27. (1) Notwithstanding any other provisions of this act or any other law, the provisions of all ordinances, resolutions, and other proceedings of the local government in respect to any outstanding bonds, notes, or any and all evidences of indebtedness or liability assumed by an authority pursuant to this act, if any, shall constitute a contract between the authority and the holders of the bonds, notes, or evidences of indebtedness or liability and are enforceable against the authority or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(2) Bonds, notes, or any and all evidences of indebtedness or liability that are assumed by an authority under this act shall be payable from and secured by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government and shall not constitute a full faith and credit obligation of the authority or of this state.

(3) Nothing in this act or in any other law shall be held to relieve the local government from which a convention facility has been transferred from any bonded or other debt or liability lawfully contracted by the local government, to which the full faith and credit of the local government has been pledged and that remains outstanding as of the transfer date, notwithstanding that the proceeds of the debt or liability have been used by the local government in support of the convention facility.

(4) Upon the transfer of a convention facility to an authority, trustees, paying agents, and registrars for any obligation of the local government that has been expressly assumed by the authority under section 19 shall perform all of their duties and obligations and provide all notices related to the obligations as if the authority were the issuer of the obligations. The trustees, paying agents, and registrars shall care for and consider all revenues and funds pledged to secure obligations of the local government that have been assumed by the authority under section 19 as revenues and funds of the authority. The authority shall indemnify and hold harmless these trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

History: 2008, Act 554, Eff. Jan. 20, 2009.

141.1379 Applicability of restrictions standards or prerequisites of local government; additional powers; construction of act.

Sec. 29. (1) Unless permitted by this act or approved by an authority, any restrictions standards or prerequisites of a local government otherwise applicable to an authority and enacted after the effective date of this act shall not apply to an authority. This subsection is intended to prohibit special local legislation or ordinances applicable exclusively or primarily to an authority and not to exempt an authority from laws generally applicable to other persons or entities.

(2) The powers conferred in this act upon any authority or local government shall be in addition to any other powers the authority or local government possesses by charter or statute. The provisions of this act apply notwithstanding any resolution, ordinance, or charter provision to the contrary.

(3) This act shall be construed liberally to effectuate the legislative intent and the purpose of this act as complete and independent authorization for the performance of each and every act and thing authorized in the act, and all powers granted in this act shall be broadly interpreted to effectuate the intent and purposes of this act and not as to limitation of powers.

History: 2008, Act 554, Eff. Jan. 20, 2009.

THE CONVENTION FACILITY AUTHORITY ACT
Act 203 of 1999

AN ACT to create certain authorities; to authorize creation of certain funds; to authorize expenditures from the funds; to finance the purchase of land and the development of certain convention facilities and of public improvements or related facilities; and to prescribe the powers and duties of certain state and local officials.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

The People of the State of Michigan enact:

141.1401 Short title.

Sec. 1. This act shall be known and may be cited as "the convention facility authority act".

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1402 Legislative findings.

Sec. 2. The legislature of this state finds that there exists in this state a continuing need for programs to promote tourism and convention business in order to assist in the prevention of unemployment and the alleviation of the conditions of unemployment, to preserve existing jobs, and to create new jobs to meet the employment demands of population growth. To achieve these purposes, it is necessary to assist and encourage local units of government to acquire, construct, improve, enlarge, renew, replace, repair, finance, furnish, and equip convention facilities and the real property on which they are located and to refinance these activities.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1403 Definitions.

Sec. 3. As used in this act:

(a) "Authority" means a convention facility authority created under section 4.

(b) "Board" means the board of directors of an authority.

(c) "Convention facility" means all or any part of, or any combination of, a convention hall, auditorium, arena, meeting rooms, exhibition area, and related adjacent public areas that are generally available to the public for lease on a short-term basis for holding conventions, meetings, exhibits, and similar events, together with appurtenant property, including parking lots or structures, necessary and convenient for use in connection with the convention facility.

(d) "Develop", unless the context clearly indicates a different meaning, means to acquire, market, promote, construct, improve, enlarge, renew, renovate, replace, lease, equip, furnish, or operate.

(e) "Fund" means the convention facility authority fund created for each authority as provided in section 10.

(f) "Qualified city" means a city with a population of more than 170,000 that is the most populous city in a qualified county.

(g) "Qualified county" means a county with a population of more than 500,000 that contains a qualified city, and that is not a charter county or a county with an optional unified form of government.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1404 Establishment of authority by county and city; resolution; organization.

Sec. 4. (1) A qualified county and a qualified city may by resolutions of their respective legislative governing bodies jointly establish an authority under this act. On the date on which all the certified copies of the resolutions establishing the authority are filed with the secretary of state, the authority is created as a body corporate and politic.

(2) An authority under this act is an authority organized pursuant to state law for purposes of 1974 PA 263, MCL 141.861 to 141.867.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1405 Board of directors; powers, duties, and functions; membership; terms; oath of office; vacancy; eligibility of legislative member or city official.

Sec. 5. (1) The powers, duties, and functions of an authority are vested in and shall be exercised by a board of directors. The board shall consist of 7 members as follows:

(a) Two members who are residents of the qualified county appointed by the county board of commissioners of the qualified county, 1 of whom is from the private sector with experience in economic development.

(b) Two members who are residents of the qualified county appointed by the mayor of the qualified city with approval by the legislative body of the qualified city, 1 of whom is from the private sector with experience in economic development.

(c) One member who is a resident of the qualified county appointed by the governor.

(d) Two members who are residents of the qualified county appointed by the 5 members described in subdivisions (a), (b), and (c) at the first meeting of the board as the first item of business, both of whom shall be selected from a list of not fewer than 3 individuals provided by the local convention and visitors bureau. Every 2 years after the first appointment under this subdivision, 1 member shall be appointed at the first meeting of the board following the expiration of the member's term as the first item of business.

(2) Except as otherwise provided in this subsection, members of the board shall be appointed for a term of 4 years. One of the board members first appointed by the county board of commissioners of the qualified county and 1 of the board members first appointed by the mayor of the qualified city with the approval of the legislative body of the qualified city shall be appointed for a term of 2 years. The first member appointed under subsection 1(d) shall be appointed for a term of 2 years. A person is not eligible to be a member of the board if that person has served 12 or more consecutive years as a member of that board.

(3) Upon appointment to a board under subsection (1) and upon taking and the filing of the constitutional oath of office, a member of the board shall enter office and exercise the duties of the office to which he or she is appointed.

(4) A vacancy on a board of a member serving for a fixed term shall be filled in the same manner as the original appointment for the balance of the unexpired term. A member of the board holds office until a successor is appointed and qualified.

(5) Notwithstanding a charter provision of a qualified city to the contrary, a member of the legislative body or other city official of the qualified city is eligible to serve as a member of a board established under this act.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1406 Board of directors; discharge of duties; actions; meetings; compensation.

Sec. 6. (1) Members of a board and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330. A member of the board or an officer, employee, or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, in good faith, and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a member of the board or an officer, employee, or agent of the authority, when acting in good faith, may rely upon any of the following:

(a) The opinion of counsel for the authority.

(b) The report of an independent appraiser selected by the board.

(c) Financial statements of the authority represented to the member of the board, officer, employee, or agent to be correct by the officer of the authority having charge of its books of account or stated in a written report by the state auditor general or a certified public accountant, or a firm of certified accountants, to reflect the financial condition of the authority.

(2) A board shall organize and make its own policies and procedures and shall adopt bylaws governing its operations. A majority of the members of a board constitutes a quorum for transaction of business, notwithstanding the existence of 1 or more vacancies on the board. Except as otherwise provided in this act, actions taken by the board shall be by a majority vote of the members present in person at a meeting of the board or, if authorized by the bylaws, by the use of amplified telephonic or video conferencing equipment. The authority shall meet at the call of the chairperson and as may be provided in the bylaws.

(3) Members of a board shall serve without compensation for their membership on the board, but members of the board may receive reasonable reimbursement for necessary travel and expenses.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1407 Conduct of business at public meetings; disclosure requirements.

Sec. 7. (1) A board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A record or a portion of a record, material, or other data received, prepared, used, or retained by the authority that relates to financial or proprietary information that is identified in writing by the person submitting the information and acknowledged by the board as confidential is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The board may meet in closed session pursuant to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, to make a determination of whether it acknowledges as confidential any financial or proprietary information submitted

and considered by the person submitting the information as confidential. For the purpose of this subsection, "financial or proprietary information" means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause the person submitting the information competitive harm.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1408 Powers of authority; limitation.

Sec. 8. (1) An authority may do all things necessary or convenient to carry out the purposes, objectives, and provisions of this act and the purposes, objectives, and powers delegated to the authority or the board by other laws or executive orders, including, without limitation, all of the following:

(a) Adopt bylaws for the regulation of its affairs and alter the bylaws at its pleasure.

(b) Sue and be sued in its own name.

(c) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers and designate the person or persons who have authority to execute those contracts and investments on behalf of the authority.

(d) Solicit, receive, and accept from any source gifts, grants, loans, or contributions of money, property, or other things of value, and other aid or payment, or participate in any other way in a federal, state, or local government program.

(e) Procure insurance against loss in connection with the property, assets, or activities of the authority.

(f) Invest money of the authority under 1943 PA 20, MCL 129.91 to 129.96, and deposit money of the authority under 1932 (1st Ex Sess) PA 40, MCL 129.11 to 129.16.

(g) Engage, on a contract basis, the services of private consultants, managers, legal counsel, and auditors for rendering professional or technical assistance and advice payable out of any money of the authority.

(h) Indemnify and procure insurance indemnifying members of the board from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority.

(i) Establish and maintain an office and employ and fix compensation for personnel of the authority. To hire an executive director or other chief administrative officer who is authorized to establish and fix a schedule of rents, admission fees, or other charges for occupancy, use of, or admission to any convention facility operated by the authority and provide for the collection and enforcement of those rents, admission fees, or other charges.

(j) Hold, clear, remediate, improve, maintain, manage, control, sell, exchange, mortgage and hold mortgages on and other security interests in, lease, as lessor or lessee, and obtain or grant easements and licenses on property that the authority acquires. A sale, exchange, lease, or other disposition of authority property shall be to a person or persons for a project or projects involving a convention facility. Property acquired by the authority and later determined by the authority to be not necessary for a convention facility may be sold or otherwise disposed of for use or uses not inconsistent with the purposes of this act. Temporary or permanent easements or licenses or other appropriate interests in property acquired by the authority may be conveyed or granted by the authority for utility, vehicular, or pedestrian traffic facilities, or related purposes not inconsistent with this act. The authority does not have the power to condemn property.

(k) Issue negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are not a debt of the qualified county, qualified city, or this state.

(*l*) Develop a convention facility.

(m) Do all other acts and things necessary or convenient to carrying out the purposes for which the authority was established.

(2) An authority established under this act shall not levy a tax.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1409 Employment of staff; audits; budget.

Sec. 9. (1) An authority may employ staff, including legal and technical experts, and other officers, or employees, permanent or temporary, paid from the funds of the authority.

(2) The accounts of an authority are subject to annual audits by the state auditor general or a certified public accountant selected by the authority. Copies of the audits shall be forwarded annually to the state treasurer as provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. Records shall be maintained according to generally accepted accounting principles.

(3) The authority shall prepare and adopt an annual budget.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1410 Convention facility authority fund; creation; disposition of money.

Sec. 10. A convention facility authority fund is created for each authority. An authority shall deposit all money received and generated by the convention facility into the fund.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1411 Payment of costs from certain revenues.

Sec. 11. The payment of principal, interest, and other costs including engineering, financial, and issuance costs, associated with bonds issued by the authority may be made by the authority from any of the following revenues:

(a) Federal grants, loans, appropriations, payments, or contributions.

(b) The proceeds from the sale, exchange, mortgage, lease, or other disposition of property that the authority has acquired.

(c) Grants, loans, appropriations, payments, proceeds from repayments of loans made by the authority, or contributions from public or private sources.

(d) Money in the fund including rents, admission fees, or other charges for use of the convention facility.

(e) Investment earnings on the revenues described in subdivisions (a) to (d).

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1412 Issuance of negotiable revenue bonds; limitations.

Sec. 12. (1) An authority may only issue negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. An authority may not issue any other kinds of bonds, notes, or other obligations.

(2) An authority may authorize and issue its negotiable revenue bonds payable solely from the revenues or funds available to the authority under section 10. Bonds, notes, or other obligations of an authority are not a debt or liability of this state, a qualified county that established the authority, or a qualified city that established the authority and do not create or constitute an indebtedness, liability, or obligation or constitute a pledge of faith and credit of this state, the qualified county that established the authority, or a qualified city that established the authority. Bonds issued by an authority are payable solely from revenues or funds pledged or available for their payment as authorized in this act or as provided in the resolution of the board authorizing the bonds.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1413 Property of authority.

Sec. 13. (1) Property of an authority is public property devoted to an essential public and governmental function and purpose. Income of the authority is for a public purpose.

(2) Except as otherwise provided in this subsection, the property of the authority and its income and operations are exempt from all taxes and special assessments of this state or a political subdivision of this state. Property of the authority and its income and operations that are leased to private persons are not exempt from any tax or special assessment of this state or a political subdivision of this state. Property of the authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(3) Bonds issued by the authority, and the interest on or income from those bonds, are exempt from all taxation of this state or a political subdivision of this state.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

141.1414 Use of funds received pursuant to section 301 of 1999 PA 137.

Sec. 14. Funds received by the authority pursuant to section 301 of 1999 PA 137 shall not be used by the authority to defray costs incurred before the date on which the funds are released by the state treasurer.

History: 1999, Act 203, Imd. Eff. Dec. 21, 1999.

REGIONAL CONVENTION AND TOURISM PROMOTION ACT
Act 254 of 2010

AN ACT relating to the promotion of convention business and tourism in this state; to provide for regional tourism and convention marketing and promotion programs in certain areas; to provide for imposition and collection of assessments on the owners of transient facilities to support tourism and convention marketing and promotion programs; to provide for the disbursement of the assessments; to establish the functions and duties of certain state departments and employees; and to prescribe penalties and remedies.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010.

The People of the State of Michigan enact:

141.1431 Short title.

Sec. 1. This act shall be known and may be cited as the "regional convention and tourism promotion act".

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010.

141.1432 Definitions.

Sec. 2. As used in this act:

(a) "Assessment" means the amount levied against an owner of a transient facility within an assessment district computed by application of the applicable percentage against aggregate room charges with respect to that transient facility during the applicable assessment period.

(b) "Assessment district" means a combination of 2 or more adjoining municipalities as described in a marketing program.

(c) "Assessment revenues" means the money derived from the assessment, including any interest and penalties on the assessment, imposed by this act.

(d) "Board" means the board of directors of a bureau.

(e) "Bureau" means a nonprofit corporation incorporated under the laws of this state existing solely to promote convention business and tourism within this state or a portion of this state and that complies with all of the following:

(*i*) Has been actively engaged in promoting convention business and tourism for not less than 5 years.

(*ii*) Has a board of directors elected by its members.

(*iii*) Has a full-time chief executive officer and not fewer than 2 full-time equivalent employees.

(*iv*) Is a member of 1 or more nationally recognized associations of travel and convention bureaus.

(f) "Director" means the chief executive officer of the Michigan economic development corporation or his or her designee.

(g) "Marketing program" means a program established by a bureau to develop, encourage, solicit, and promote regional convention business and tourism within this state or a portion of this state within which the bureau operates. The encouragement and promotion of regional convention business and tourism shall include any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau, that intends to attract transient guests to the assessment district.

(h) "Marketing program notice" means the notice described in section 3.

(i) "Municipality" means a county with a population of more than 80,000 and less than 115,000 and that contains a city with a population of more than 35,000 and less than 45,000, at the time the marketing notice is filed with the director, and that shares a border with a county that levies a tax on accommodations under 1974 PA 263, MCL 141.861 to 141.867.

(j) "Owner" means the owner of a transient facility located within the assessment district or, if the transient facility is operated or managed by a person other than the owner, then the operator or manager of that transient facility.

(k) "Room" means a room or other space provided for sleeping, including the furnishings and other accessories in the room.

(*l*) "Room charge" means the charge imposed for the use or occupancy of a room, excluding charges for food, beverages, state use tax, telephone service or like services paid in connection with the charge, and reimbursement of the assessment imposed by this act.

(m) "Transient facility" means a building that contains 2 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. A transient facility shall not include a hospital or nursing home.

(n) "Transient guest" means a person who occupies a room in a transient facility for less than 30 consecutive days regardless of who pays the room charge for the room.

(o) "Use tax" means the tax imposed under the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010.

141.1433 Marketing program notice; filing; contents; mailing to owners of transient facility owners; right of referendum; assessment contained in notice; effectiveness; written referendum; effect of approval or disapproval of assessment.

Sec. 3. (1) A bureau that has its principal place of business in an assessment district may file a marketing program notice with the director. The notice shall state that the bureau proposes to create a marketing program under this act and cause an assessment to be collected from owners of transient facilities within the assessment district to pay the costs of the program.

(2) The marketing program notice shall describe the structure, history, membership, and activities of the bureau in sufficient detail to enable the director to determine whether the bureau satisfies all of the requirements of section 2(e).

(3) The marketing program notice shall describe the marketing program to be implemented by the bureau with the assessment revenues and specify the amount of the assessment proposed to be levied, which shall not exceed 5% of the room charges in the applicable payment period, and the municipality or municipalities composing the assessment district.

(4) Simultaneously with the filing of the marketing program notice with the director, the bureau shall cause a copy of the notice to be mailed by registered or certified mail to each owner of a transient facility located in the assessment district specified in the notice in care of the respective transient facility. In assembling the list of owners to whom the notices shall be mailed, the bureau shall use any data that are reasonably available to the bureau.

(5) The form of the marketing program notice, in addition to the information required by subsections (1), (2), and (3), shall set forth the right of referendum prescribed in subsection (6).

(6) Except as otherwise provided in subsection (8), the assessment set forth in the notice shall become effective on the first day of the month following the expiration of 40 days after the date the notice is mailed, unless the director, within the 40-day period, receives written requests for a referendum by owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all of the transient facilities.

(7) If the director receives referendum requests in the time and number set forth in subsection (6), the director shall cause a written referendum to be held by mail or in person, as the director chooses, among all owners of transient facilities in the assessment district within 20 days after the expiration of the 40-day period. For the purposes of the referendum, each owner of a transient facility shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of votes actually cast at the referendum approve the assessment, as proposed by the bureau in its marketing program notice, the assessment shall become effective, except as otherwise provided in subsection (8), as to all owners of transient facilities located in the assessment district on the first day of the month following expiration of 30 days after certification of the results of the referendum by the director. If a majority of votes actually cast at the referendum are opposed to the assessment, the assessment shall not become effective. If the assessment is defeated by the referendum, the bureau may file and serve a new notice of intention if at least 60 days have elapsed from the date of certification of the results of the earlier referendum. Not more than 2 referenda or notices may be held pursuant to this subsection or filed pursuant to this section in any 1 calendar year. Only 1 assessment under this act may be in existence in an assessment district, or any part of an assessment district, at any 1 time.

(8) The assessment described in this act shall not be effective before January 1, 2011.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010.

141.1434 Marketing program; provisions.

Sec. 4. A marketing program may include all or any of the following:

(a) Provisions for establishing and paying the costs of advertising, marketing, and promotional programs to encourage convention business and tourism in the assessment district.

(b) Provisions for assisting transient facilities within the assessment district in promoting regional convention business and tourism.

(c) Provisions for the acquisition of personal property considered appropriate by the bureau in furtherance of the purposes of the marketing program.

(d) Provisions for the hiring of and payment for personnel employed by the bureau to implement the marketing program.

(e) Provisions for contracting with organizations, agencies, or persons for carrying out activities in furtherance of the purposes of the marketing program.

(f) Programs for establishing and paying the costs of research designed to encourage convention business and tourism in the assessment district.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010.

141.1435 Assessment payments; computation; statement of room charges; forwarding copies of use tax returns; use by certified public accountants; interest; delinquency charge; attorney fees and court costs; liability for payment after mailing of notice.

Sec. 5. (1) Upon the effective date of an assessment, each owner of a transient facility in the assessment district shall be liable for payment of the assessment, computed using the percentage set forth in the marketing program notice. The assessment shall be paid by the owner of each such transient facility to the bureau within 30 days after the end of each calendar month and shall be accompanied by a statement of room charges imposed with respect to the transient facility for that month. This act shall not prohibit a transient facility from reimbursing itself by adding the assessment imposed pursuant to this act to room charges payable by transient guests, provided that the transient facility discloses that it has done so on any bill presented to a transient guest.

(2) Within 30 days after the close of each calendar quarter, each owner within an assessment district shall forward to the independent certified public accountants who audit the financial statements of the bureau copies of its use tax returns for the preceding quarter. These copies of the use tax returns shall be used solely by the certified public accountants to verify and audit the owner's payment of the assessments and shall not be disclosed to the bureau except as necessary to enforce this act.

(3) Interest shall be paid by an owner to the bureau on any assessments not paid within the time called for under this act. The interest shall accrue at the rate of 1.5% per month. Owners delinquent for more than 90 days in paying assessments, in addition to the 1.5% interest, shall pay a delinquency charge of 10% per month or fraction of a month on the amount of the delinquent assessments and shall pay the costs of reasonable attorney fees and court costs incurred in collecting delinquent assessments. The bureau may sue in its own name to collect the assessments, interest, and delinquency charges.

(4) The owner of a transient facility shall not be liable for payment of an assessment until a notice has been mailed to the transient facility of the owner pursuant to section 3(4).

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010.

141.1436 Assessment revenues; deposit; disbursement; mailing audited financial statements and report; failure of bureau to provide copies within certain time limit; penalty.

Sec. 6. (1) The assessment revenues collected pursuant to this act shall not be state funds. The money shall be deposited in a bank or other depository in this state, in the name of the bureau, and disbursed only for the expenses properly incurred by the bureau with respect to the marketing programs developed by the bureau under this act.

(2) The financial statements of the bureau shall be audited at least annually by a certified public accountant. A copy of the audited financial statements shall be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial statements shall include a statement of all assessment revenues received by the bureau during the fiscal year in question and include the amount of wages and benefits for each full-time employee of the bureau and shall be accompanied by a detailed report, certified as correct by the chief operating officer of the bureau, describing the marketing programs implemented or, to the extent then known, to be implemented by the bureau.

(3) Copies of the audited financial statements and the certified report shall simultaneously be mailed to the director, who shall make it available to the public on the internet. If the bureau fails to submit copies of the audited financial statements and the certified report to the director as provided in this subsection, the director shall mail a demand letter to the bureau requesting copies of the audited financial statements and the certified report with a copy of that demand letter forwarded to the attorney general. If the director does not receive copies of the audited financial statement and the certified report described in this subsection within 90 days of the demand letter, upon notice by the director or the attorney general, for the period of noncompliance with this subsection, the bureau shall not expend any portion of the assessment collected during the period of noncompliance with this subsection. The attorney general may assist the director in enforcing the provisions of this act.

(4) If the bureau fails to provide the copies of the audited financial statement and the certified report within 90 days of the demand letter as provided in subsection (3), the bureau is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $10,000.00 and, in addition, the attorney general may bring action to dissolve the bureau as provided by law.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010.

141.1437 Referendum to discontinue assessment.

Sec. 7. (1) At any time 3 years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within the assessment district representing not less than 40% of the total number of owners or not less than 40% of the total number of rooms in all the transient facilities, the bureau shall conduct a referendum on whether the assessment shall be discontinued. The bureau shall cause a written referendum to be held by mail or in person, as the bureau chooses, among all owners of transient facilities in the assessment district within 60 days of the receipt of the requests. For the purposes of the referendum, each owner shall have 1 vote for each room in each of the owner's transient facilities within the assessment district. If a majority of the total votes eligible to be cast at the referendum supports discontinuance of the assessment, the assessment shall be discontinued on the first day of the month following expiration of 90 days after the certification of the results of the referendum by the bureau.

(2) Passage of a resolution discontinuing the assessment shall not prevent a bureau from proposing a new marketing program notice during or after the 90-day period, in which case the procedures set forth in section 3 shall be followed.

(3) If a referendum is conducted under subsection (1) and if a resolution to discontinue the assessment is not adopted, a further referendum on the discontinuation of that assessment shall not be held for a period of 2 years.

History: 2010, Act 254, Imd. Eff. Dec. 14, 2010.

SAFE DRINKING WATER FINANCIAL ASSISTANCE ACT
Act 147 of 2000

AN ACT to authorize certain governmental units to issue notes or bonds for planning for the acquisition, construction, improvement, or installation of safe drinking water facilities; to provide security for the payment of the principal of and interest on the notes or bonds; and to prescribe the powers and duties of certain governmental units.

History: 2000, Act 147, Eff. Oct. 1, 2000.

The People of the State of Michigan enact:

141.1451 Short title.

Sec. 1. This act shall be known and may be cited as the "safe drinking water financial assistance act".

History: 2000, Act 147, Eff. Oct. 1, 2000.

Compiler's note: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

141.1452 Definitions.

Sec. 2. As used in this act:

(a) "Assistance" means that term as it is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(b) "Community water supply" means that term as it is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(c) "Department" means the department of environmental quality.

(d) "Governmental unit" means a governmental unit as defined in section 3 of the shared credit rating act, 1985 PA 227, MCL 141.1053, that is eligible for reimbursement of project planning costs under section 5404(3)(b) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5404.

(e) "Noncommunity water supply" means that term as it is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

(f) "Water supplier" means that term as it is defined in part 54 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5401 to 324.5418.

History: 2000, Act 147, Eff. Oct. 1, 2000.

Compiler's note: For transfer of powers and duties of department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

141.1453 Notes or bonds; issuance; use; limitation; sale to Michigan municipal bond authority.

Sec. 3. Subject to this act, a governmental unit may issue notes or bonds and use the proceeds of the notes or bonds for planning for the acquisition, construction, improvement, or installation of real or personal property comprising all or a portion of a community water supply or noncommunity water supply. For any governmental unit, the aggregate principal amount of all notes and bonds issued under this act less the principal amount used by the governmental unit to purchase notes or bonds issued by another governmental unit under this act shall not exceed $100,000.00. The notes or bonds issued under this act shall be sold to the Michigan municipal bond authority or to another governmental unit if the other governmental unit purchases the notes or bonds with proceeds of notes or bonds issued under this act and sold to the Michigan municipal bond authority. The notes or bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Each governmental unit is authorized to use proceeds of notes or bonds issued by it under this act and sold to the Michigan municipal bond authority to purchase notes or bonds issued under this act by any other governmental unit.

History: 2000, Act 147, Eff. Oct. 1, 2000;—Am. 2002, Act 289, Imd. Eff. May 9, 2002.

141.1454 Notes or bonds; issuance; authorization by resolution; provisions.

Sec. 4. Notes or bonds issued under this act shall be authorized by a resolution of the governing body of the governmental unit, which may pledge the full faith and credit of the governmental unit to the payment of the principal of and interest on the notes or bonds. The resolution of the governing body of the governmental unit authorizing the issuance of notes or bonds under this act may authorize the governmental unit to enter into loan agreements, security agreements, pledge agreements, including, but not limited to, the pledge of water supply revenues, mortgages, assignments, or other agreements determined to be necessary to the issuance of the notes or bonds and may authorize the governmental unit to use proceeds of the notes or bonds sold to the Michigan municipal bond authority to purchase notes or bonds issued under this act by any other governmental unit.

History: 2000, Act 147, Eff. Oct. 1, 2000;—Am. 2002, Act 289, Imd. Eff. May 9, 2002.

141.1455 Construction of act; purpose; restriction.

Sec. 5. This act shall be construed as cumulative authority for the exercise of the powers granted under this act. The purpose of this act is to create full and complete additional and alternate methods for the exercise of these powers, and the powers conferred by this act shall not be affected or limited by any other statute or by any charter or incorporating document, except as otherwise provided in this act. However, this act does not authorize the governing body of any governmental unit to levy taxes in excess of constitutional, statutory, or charter limitations without the approval of its electors, as provided by law.

History: 2000, Act 147, Eff. Oct. 1, 2000.

REVISED MUNICIPAL FINANCE ACT
Act 34 of 2001

AN ACT relative to the borrowing of money and the issuance of certain debt and securities; to provide for tax levies and sinking funds; to prescribe powers and duties of certain departments, state agencies, officials, and employees; to impose certain duties, requirements, and filing fees upon political subdivisions of this state; to authorize the issuance of certain debt and securities; to prescribe penalties; and to repeal acts and parts of acts.

History: 2001, Act 34, Eff. Mar. 1, 2002.

The People of the State of Michigan enact:

PART I

DEFINITIONS

141.2101 Short title.

Sec. 101. This act shall be known and may be cited as the "revised municipal finance act".

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2103 Definitions.

Sec. 103. As used in this act:

(a) "Assessed value", "assessed valuation", "valuation as assessed", and "valuation as shown by the last preceding tax assessment roll", or similar terms, used in this act, any statute, or charter as a basis for computing limitations upon the taxing or borrowing power of any municipality, mean the state equalized valuation as determined under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(b) "Chief administrative officer" means that term as defined in section 2b of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.422b.

(c) "Debt" means all borrowed money, loans, and other indebtedness, including principal and interest, evidenced by bonds, obligations, refunding obligations, notes, contracts, securities, refunding securities, municipal securities, or certificates of indebtedness that are lawfully issued or assumed, in whole or in part, by a municipality, or will be evidenced by a judgment or decree against the municipality.

(d) "Debt retirement fund" means a segregated account or group of accounts used to account for the payment of, interest on, or principal and interest on a municipal security.

(e) "Deficit" means a situation for any fund of a municipality in which, at the end of a fiscal year, total expenditures, including an accrued deficit, exceeded total revenues for the fiscal year, including any surplus carried forward.

(f) "Department" means the department of treasury.

(g) "Fiscal year" means a 12-month period fixed by statute, charter, or ordinance, or if not so fixed, then as determined by the department.

(h) "Governing body" means the county board of commissioners of a county; the township board of a township; the council, common council, or commission of a city; the council, commission, or board of trustees of a village; the board of education or district board of a school district; the board of an intermediate school district; the board of trustees of a community college district; the county drain commissioner or drainage board of a drainage district; the board of the district library; the legislative body of a metropolitan district; the port commission of a port district; and, in the case of another governmental authority or agency, that official or official body having general governing powers over the authority or agency.

(i) "Municipal security" means a security that when issued was not exempt from this act or the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, by the provisions of this act or by the provisions of the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, or by the provisions of the law authorizing its issuance and that is payable from or secured by any of the following:

(*i*) Ad valorem real and personal property taxes.

(*ii*) Special assessments.

(*iii*) The limited or unlimited full faith and credit pledge of the municipality.

(*iv*) Other sources of revenue described in this act for debt or securities authorized by this act.

(j) "Municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district, district library, or another governmental authority or agency in this state that has the power to issue a security. Municipality does not include this state or any authority, agency, fund, commission, board, or department of this state.

(k) “Outstanding security” means a security that has been issued, but not defeased or repaid, including a security that when issued was exempt from this act or the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, by the provisions of this act or by the provisions of the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, or by the provisions of the law authorizing its issuance.

(*l*) “Qualified status” means a municipality that has filed a qualifying statement under section 303 and has been determined by the department to be qualified to issue municipal securities without further approval by the department.

(m) “Refunding security” means a municipal security issued to refund an outstanding security.

(n) “Security” means an evidence of debt such as a bond, note, contract, obligation, refunding obligation, certificate of indebtedness, or other similar instrument issued by a municipality, which pledges payment of the debt by the municipality from an identified source of revenue.

(o) “Sinking fund” means a fund for the payment of principal only of a mandatory redemption security.

(p) “Taxable value” means the taxable value of the property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2105 Municipal security; limitations.

Sec. 105. A municipal security does not include any of the following:

(a) A contract for the purchase of real or personal property.

(b) A contract for the lease of real or personal property with or without an option to purchase.

(c) A contract, lease, note, or other security given in connection with a contract described in subdivision (a) or (b).

(d) A security that is evidence of an emergency loan under section 1 of 1855 PA 105, MCL 21.141, in conjunction with the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, or qualified agricultural loans under section 2a of 1855 PA 105, MCL 21.142a.

(e) A mortgage secured by real property and its corresponding security to the extent secured by the mortgage.

(f) A contract between 1 or more municipalities under whose terms 1 or more municipalities pledge their revenues or full faith and credit to secure payment of a proposed municipal security issued by 1 of the municipalities.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002.

PART II

POWERS

141.2201 Powers and duties of department.

Sec. 201. The department is authorized and directed to protect the credit of this state and its municipalities, and to enforce the provisions of this act, and has the following general powers:

(a) To aid, advise, and consult with any municipality with respect to fiscal questions arising from and relating to its proposed or outstanding securities.

(b) To issue bulletins or adopt rules as necessary to carry out the purposes of this act. A bulletin issued under this subdivision shall include a statement of the department's specific statutory authority for any substantive requirement contained within the bulletin. A rule adopted under this subdivision shall be adopted in accordance with the provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) To examine the books and records of any municipality for the purpose of ascertaining if the municipality is complying with the requirements of the department, the statutes of this state, and its charter, ordinances, and resolutions, in relation to its municipal securities. For those purposes, it may require sworn statements from any officer or employee of the municipality or may require the municipality to furnish it with a statement of its financial condition. The department has full power in furtherance of its investigations to examine witnesses under oath and compel the attendance of witnesses, the giving of testimony, and the production of books, papers, and records. Witnesses may be summoned by the department by its process upon the payment of the same fees as are allowed to witnesses attending in the circuit court of the county in which the hearing is held. Any person duly subpoenaed under this section who neglects to attend or testify at the place named in the subpoena, served for that purpose, is guilty of a misdemeanor.

(d) To enforce compliance with any provision of this act or with any provisions of any law, charter, ordinance, or resolution with respect to debts or securities subject to its jurisdiction, including the levy and collection of taxes and the segregation, safekeeping, investment, and application of money for the payment of debt. The department may institute appropriate proceedings in the courts of this state, including those for a writ of mandamus and injunctive relief.

(e) To render financial advisory, paying agent, registration, and transfer services and materials, including assistance in the preparation and issuance of a municipality's municipal securities; prepare explanatory manuals; conduct training seminars; and, upon request of the municipality, assist a municipality in issuing its municipal securities under this act. The department may impose a fee upon municipalities requesting its services or materials, which fee shall be limited to the cost incurred by the department in providing the service. The paying agent, registration, and transfer services authorized by this subdivision, if requested by a municipality, shall be performed solely by the department with respect to the requesting municipalities.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2203 Appeal of department determination.

Sec. 203. If a municipality feels aggrieved by a determination of the department, it may notify the department and appeal the determination of the department as a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. This section does not permit the issuance, amendment, or modification of any order or determination of the department in respect to the issuance of a municipal security, after the municipal security has been issued, if that action would affect the municipal security interests of the holders of the municipal security adversely.

History: 2001, Act 34, Eff. Mar. 1, 2002.

PART III
GENERAL

141.2301 Issuance of municipal security.

Sec. 301. A municipality shall not issue a municipal security except in accordance with this act.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2303 Annual audit report and qualifying statement; filing by municipality; compliance requirements; determination; correction of noncompliant requirements; reconsideration; order granting exception from prior approval.

Sec. 303. (1) Each municipality shall file an audit report annually with the department within 6 months from the end of its fiscal year or as otherwise provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) Accompanying the audit report described in subsection (1), a municipality shall file a qualifying statement, on a form and in the manner provided by the department, which shall be certified by the chief administrative officer. Within 30 business days of the receipt of the qualifying statement, the department shall determine if the municipality complies with the requirements of subsection (3). If the department determines that the municipality complies with the provisions of subsection (3) or if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the qualifying statement, the municipality may proceed to issue municipal securities under this act without further approval from the department until 30 business days after the next qualifying statement is due or a new determination is made by the department, whichever occurs first.

(3) To qualify to issue municipal securities without further approval from the department, the municipality shall be in material compliance with all of the following requirements, as determined by the department:

(a) The municipality is not operating under the provisions of the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291.

(b) The municipality did not issue securities in the immediately preceding 5 fiscal years or current fiscal year that were authorized by either the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, other than a security issued for a loan authorized under section 3(2)(a) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, or the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011.

(c) The municipality was not required by the terms of a court order or judgment to levy a tax in the preceding fiscal year. For purposes of this subdivision, the department may determine that a court order or judgment to levy a tax is not material if it did not have an adverse financial impact on the municipality.

(d) The most recent audit report, as required by the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, was filed with the department within 6 months from the end of the fiscal year of the municipality.

(e) The debt retirement fund balance for any municipal security that is funded from an unlimited tax levy does not exceed 150% of the amount required for principal and interest payments due for that municipal security in the next fiscal year.

(f) The municipality is not currently exceeding its statutory or constitutional debt limits.

(g) The municipality has no outstanding securities that were not authorized by statute.

(h) The municipality is not currently and during the preceding fiscal year was not in violation of any provisions in the covenants for an outstanding security.

(i) The municipality was not delinquent more than 1 time in the preceding fiscal year in transferring employee taxes withheld to the appropriate agency, transferring taxes collected as agent for another taxing entity to that taxing unit, or making all required pension, retirement, or benefit plan contributions.

(j) The most recent delinquent property taxes of the municipality, without regard to payments received from the county under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, did not exceed 18% of the amount levied.

(k) The municipality did not submit a qualifying statement or an application for any other municipal security in the preceding 12 months that was materially false or incorrect.

(*l*) The municipality is not in default on the payment of any debt, excluding industrial development revenue bonds issued under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, economic development corporation bonds issued under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, bonds issued by a local hospital finance authority for a private hospital under the hospital finance authority act, 1969 PA 38, MCL 331.31 to 331.84, or any other debt for which the municipality is not financially liable.

(m) The municipality did not end the immediately preceding fiscal year with a deficit in any fund, unless the municipality has filed a financial plan to correct that deficit condition that is acceptable to the department.

(n) The municipality has not been found by a court of competent jurisdiction to be in violation of any finance or tax-related state or federal statutes during the preceding fiscal year.

(o) The municipality has not been determined by the department to be in violation of this act during the preceding fiscal year.

(p) The municipality did not issue a refunding security in the preceding fiscal year to avoid a potential default on an outstanding security.

(4) If a municipality is notified within 30 business days of the filing of the qualifying statement that it does not comply with 1 or more of the requirements of subsection (3), the municipality may correct the noncompliant requirements and request a reconsideration of the determination from the department as provided in subsection (5).

(5) A municipality may request a reconsideration of the determination from the department. That request shall indicate the requirements that the department determined the municipality to be not in compliance with and the action taken by the municipality to correct the noncompliance. Within 30 business days of the receipt of the request for reconsideration, the department shall determine if the municipality complies with the requirements of subsection (3) or, if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the request for reconsideration, the municipality will be granted qualified status.

(6) If a municipality is notified within 30 business days after filing a request for reconsideration that it does not comply with the requirements of subsection (3), the municipality shall not issue municipal securities under this act without the prior written approval of the department to issue a municipal security as provided in subsections (7) and (8).

(7) If a municipality has not been granted qualified status, the municipality must obtain, for each municipal security, the prior written approval of the department to issue a municipal security. To request prior written approval to issue a municipal security, the municipality shall submit an application and supporting documentation to the department on a form and in a manner prescribed by the department, which shall be certified by the chief administrative officer. A filing fee equal to 0.03% of the principal amount of the municipal security to be issued, but not less than $800.00 and not greater than $2,000.00 as determined by the department, shall accompany each application. If the qualifying statement required by subsection (2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of $100.00 shall accompany the first application filed after that date. Within 30 business days of receiving an application, the fee, and supporting documentation from a municipality, the department shall make a determination whether the municipality has met all of the following requirements:

(a) Has indicated the authority to issue the municipal security requested.

(b) Is projected to be able to repay the municipal security when due.

(c) Has filed information with the department indicating compliance with the requirements of subsection (3) or adequately addressed any noncompliance with subsection (3) as determined by the department.

(d) If required by the department, has obtained an investment grade rating for the municipal security or has purchased insurance for payment of the principal and interest on the municipal security to the holders of the municipal security, or has otherwise enhanced the creditworthiness of the municipal security.

(8) If the department determines that the requirements in subsection (7) have been met, the department shall approve the issuance of the proposed municipal security. If the department determines that the requirements in subsection (7) have not been met, the department shall issue a notice of deficiency to the municipality that prevents the issuance of the proposed municipal security. The notice of deficiency shall state the specific deficiencies and problems with the proposed issuance. After the deficiencies and problems have been addressed as determined by the department, the department shall approve the issuance of the proposed municipal security.

(9) A determination by the department that a municipality has been granted qualified status constitutes an order granting exception from prior approval under former 1943 PA 202, of that municipality's securities.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002.

141.2304 Issuance of municipal security; provisions applicable to contracting municipalities.

Sec. 304. If a municipality issues a municipal security subject to this act and the principal and interest for that municipal security will be paid by 1 or more municipalities not issuing the municipal security under a contract, then 1 of the following applies:

(a) If all of the municipalities contracting to pay the municipal security have been granted qualified status, then the issuance of the municipal security is subject to section 303(2).

(b) Except as provided in subdivision (c), if 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status, then the issuance of the municipal security is subject to section 303(7).

(c) If 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status and the other municipalities representing over 50% of the contractual obligation have been granted qualified status and the municipality that issues the municipal security has been granted qualified status and pledges its full faith and credit on the municipal security, then the issuance of the municipal security is subject to section 303(2).

History: Add. 2002, Act 541, Imd. Eff. July 26, 2002.

141.2305 Issuance of municipal security; interest rate; sale at discount; rating; maturity; principal as interest.

Sec. 305. (1) A municipal security authorized by law to be issued by a municipality may, notwithstanding the provisions of a charter, bear no interest as provided in this section or a rate of interest not to exceed a maximum rate established by the governing body of the issuing municipality as set forth in its resolution or ordinance authorizing the issuance of the municipal security, which rate shall not exceed 18% per annum or a per annum rate determined by the department at the request of the municipality, whichever is higher. In making its determination, the department shall establish a rate that shall bear a reasonable relationship to 80% of the adjusted prime rate determined by the department under section 23 of 1941 PA 122, MCL 205.23. Except as otherwise provided in this section, the rate determined by the department shall be conclusive as to the maximum rate of interest permitted for a municipal security issued under this act.

(2) Except as provided in subsection (3), a municipal security issued under this act shall not be sold at a discount exceeding 10% of the principal amount of the municipal security. The amortization of the discount shall be considered interest and shall be within the interest rate limitation set forth in subsection (1).

(3) A municipal security may be sold at a discount exceeding 10% of the principal amount of the municipal security only if 1 or more of the following conditions apply, as determined by the department:

(a) The sale will result in the more even distribution for the municipality of total debt service on proposed and outstanding municipal securities.

(b) The sale will result in an interest cost savings when compared to the best available alternative that does not include a municipal security being sold at a discount exceeding 10% of the principal amount.

(c) The issuance is based on the availability of specific revenues previously pledged for another purpose and lawfully available for this purpose.

(d) The municipal security is issued to this state or the federal government to secure a loan or agreement.

(4) A municipal security issued in accordance with subsection (3)(a), (b), or (c) shall be rated investment grade by a nationally recognized rating agency or have insurance for payment of the principal and interest on the municipal security to the holders of the municipal security.

(5) Notwithstanding any other provision of this section, a municipal security meeting the requirements of subsection (3) that is a refunding security shall not have a maturity that exceeds the maturity of the existing municipal security.

(6) Not more than 25% of the total principal amount of any authorized issue of a municipal security shall meet the qualifications under subsection (3)(a), (b), and (c).

(7) A municipal security may bear no interest if sold in accordance with a federal program by which the holder of the municipal security, as a result of holding the municipal security, may declare a credit against a federal tax.

(8) A municipal security may bear no interest and appreciate as to principal amount if it meets the requirements of subsections (3), (4), and (6). The accreted principal amount of a municipal security shall be considered interest and shall be within the interest rate limitations provided in subsection (1).

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2307 Proposed bulletin; public comment period.

Sec. 307. Before any bulletin issued by the department can take effect that addresses the filings, approvals, or determinations under section 303, or any modification of an existing bulletin that addresses the filings, approvals, or determinations under section 303, the department shall issue the bulletin or modification as a proposed bulletin with not less than a 30-day public comment period.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2308 Limited tax full faith and credit pledge; notice.

Sec. 308. If a municipality issues a municipal security that contains the limited tax full faith and credit pledge of the municipality after October 1, 2002, a notice of at least 1 meeting at which a decision will be made or discussed with respect to the issuance of the municipal security shall contain a statement that the proposed municipal security will contain a limited tax full faith and credit pledge of the municipality. This section does not apply to a refunding security, short-term municipal security issued under part 4, or a municipal security for which the municipality is required to provide a notice of the right of referendum by law or charter.

History: Add. 2002, Act 541, Imd. Eff. July 26, 2002.

141.2309 Sale of municipal security at competitive or negotiated sale; requirements.

Sec. 309. (1) A municipality may sell an authorized municipal security at a competitive sale or a negotiated sale as determined in the authorizing resolution. If a municipality determines to sell a municipal security at a negotiated sale, the governing body shall expressly state the method and reasons for choosing a negotiated sale instead of a competitive sale in the resolution or ordinance authorizing the issuance or sale of the municipal security.

(2) If a municipality determines to sell a municipal security at a competitive sale, the municipality shall publish a notice of sale at least 7 days before the date set for the sale, in a publication printed in the English language and circulated in this state that carries as a part of its regular service the notices of the sale of municipal securities.

(3) A municipality shall award a municipal security sold at a competitive sale to the bidder whose bid meets all specifications and requirements and results in the lowest interest cost to the municipality, unless all bids are rejected.

(4) A municipality may accept bids for the purchase of a municipal security made in person, by mail, by facsimile, by electronic means, or by any other means authorized by the municipality.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2311 Municipal security; registration; facsimile signatures; transfer of ownership; delivery; validity of signature of former officer.

Sec. 311. (1) A municipal security may be registrable as to principal alone or as to both principal and interest under terms and conditions determined by the governing body of the issuing municipality.

(2) A municipality may authorize a trustee or other authenticating agent to authenticate any municipal security executed by the facsimile signatures of the officials of the municipality in lieu of manual signatures of the officials of the issuing municipality.

(3) Officials of a municipality may sign and seal a municipal security in facsimile form if so authorized by the governing body of the issuing municipality.

(4) If authorized by the governing body of the issuing municipality, ownership of a municipal security may be transferred by means of a recorded entry in a record maintained by the issuing municipality, trustee, or other agent in lieu of printing and transferring a new municipal security. However, this subsection does not preclude a municipality from the delivery of, and a municipality shall have the authority to deliver, new municipal securities as evidence of the originally issued municipal security.

(5) If an individual acting in an official capacity signs or affixes his or her signature to a municipal security under this act and that individual ceases to be an officer before delivery of the municipal security, the municipal security is valid the same as if the individual had remained in office until delivery of that municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2313 Mutilated security; substitution.

Sec. 313. If a municipal security has become mutilated, then the governing body of the municipality may by resolution provide for the issuance of a new municipal security with like terms, in exchange for and substitution of the mutilated municipal security. In all such cases the holder shall pay the reasonable expenses and charges of such an exchange.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2315 Issuance of municipal security; determination; payment on demand; contrary ordinance or charter provision.

Sec. 315. (1) In determining to issue a municipal security, a municipality may do 1 or more of the following:

(a) Authorize and enter into insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase municipal securities, remarketing agreements, reimbursement agreements, and any other transactions to enhance timely payment of any municipal security.

(b) Authorize payment from the proceeds of the municipal security, or from other funds available, of the cost of issuance, including, but not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or agreements to enhance timely payment of municipal securities.

(c) Authorize principal and interest to be payable from 1 or more of the following:

(*i*) Taxes or other revenues of the municipality.

(*ii*) Proceeds of the municipal security.

(*iii*) Earnings on proceeds of the municipal security or other funds held for payment of the municipal security.

(*iv*) Proceeds of any other transaction described in subdivision (a).

(d) Authorize or provide for an officer of the municipality, but only within limitations that shall be contained in the authorizing resolution of the governing body, to do 1 or more of the following:

(*i*) Sell, deliver, and receive payment for the municipal securities.

(*ii*) Refund the municipal securities in accordance with part VI of this act.

(*iii*) Deliver a municipal security partly to refund another security and partly for any other authorized purposes.

(*iv*) Buy the municipal security so issued at not more than the face value of the municipal security.

(*v*) Approve fixed interest rates, variable interest rates, or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment date, redemption rights at the option of the municipality or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(2) A municipality may provide that a municipal security additionally secured as provided in subsection (1) may be payable on demand or before maturity at the option of the holder only at the time and in the manner determined by the governing body as provided in the resolution authorizing the municipal security.

(3) The authority granted by this section may be exercised notwithstanding any ordinance or charter provision to the contrary.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2317 Interest rate exchange or swap, hedge, or similar agreement; definitions.

Sec. 317. (1) For the purpose of more effectively managing its debt service, a municipality may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of debt or in connection with its then outstanding debt.

(2) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, a municipality may create a reserve fund for the payment of the exchange or swap, hedge, or similar agreement.

(3) An agreement entered into pursuant to this section shall not be included within the total debt of a municipality for any statutory or charter or other debt limitation purpose.

(4) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was not approved by the voters of the municipality, or in

connection with a refunding of debt not originally approved by the voters of the municipality, 1 or more of the following apply:

(a) The interest under the agreement constitutes a limited tax full faith and credit pledge from general funds of the municipality.

(b) Subject to any existing contracts, the interest under the agreement shall be payable from any available money or revenue sources, including revenues that shall be specified by the agreement, securing the municipal security in connection with which the agreement is entered into.

(5) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was approved by the voters of the municipality, or in connection with a refunding of debt originally approved by the voters of the municipality, the municipality's interest payment obligation under the agreement shall be considered to be additional interest on the debt, shall constitute an unlimited tax full faith and credit pledge of the municipality, and the municipality shall levy all of the following:

(a) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of principal and interest on the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy.

(b) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of the municipality's net interest obligation under an interest rate exchange or swap, hedge, or similar agreement entered into under this section.

(c) The amounts levied under subdivisions (a) and (b) shall be reduced by any surplus funds on hand in the debt retirement fund in excess of a reasonable reserve as determined by the municipality's chief financial officer.

(6) For purposes of this section, “net interest obligation” means the amount of interest payable by a municipality in a given year under an agreement entered into under this section minus any interest payment received by a municipality from the other party to the agreement in the same period under the agreement, but not less than zero. Termination payments shall constitute interest to the extent that the treatment does not cause the interest rate on the debt to exceed the limits established by this act.

(7) A municipality shall not enter into an agreement under this section unless all of the following conditions are met:

(a) The governing body of the municipality has, by resolution or ordinance, expressly approved the agreement and acknowledged the potential risks associated with the agreement.

(b) The counterparty to the agreement has been assigned a rating of “A” or better, or other rating as the department may determine, by a nationally recognized rating agency at the time the agreement is entered into.

(c) The length of the agreement does not extend beyond the final maturity date of the debt issued in connection with the agreement.

(d) The municipality shall not have waived its right to a jury trial.

(e) The municipality has created a debt management plan.

(f) The municipality has created a swap management plan.

(8) An agreement entered into under this section shall be described in the municipality's annual audit report filed under section 303(1).

(9) As used in this section:

(a) “Debt management plan” means a written debt management plan of the municipality that includes, but is not limited to, the following:

(*i*) Total amount of debt of the municipality.

(*ii*) Total amount of variable rate debt of the municipality.

(*iii*) Analysis of the effect of rising interest rates on variable rate holdings of the municipality.

(*iv*) Analysis of risk in maintaining variable risk holdings.

(b) “Swap management plan” means a written management plan that includes, but is not limited to, all of the following:

(*i*) Analysis of the benefits and costs of entering into swap agreements.

(*ii*) Analysis of the risk associated with entering into swap agreements.

(*iii*) Analysis of early termination, involuntary termination, default, and cost considerations associated with swap agreements.

(*iv*) System in place to monitor the status of all outstanding swap agreements.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 500, Imd. Eff. July 3, 2002.

141.2319 Document to be filed by municipality; failure to comply with subsection (1) or (2).

Sec. 319. (1) Within 15 business days of completing the issuance of any municipal security qualified under section 303(3), the municipality shall file a copy of all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution or certificate of award including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) A filing fee equaling 0.02% of the principal amount of the municipal security issued, but in an amount not less than $100.00 and not greater than $1,000.00, as determined by the department.

(j) If the qualifying statement required by section 303(2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of $100.00 with the first filing thereafter.

(k) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(2) Within 15 business days of completing the issuance of any municipal security approved under section 303(7), the municipality shall file all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(3) The failure to comply with subsection (1) or (2) does not invalidate any of the securities issued or reported under this act.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002.

141.2321 Filing in electronic format.

Sec. 321. The department may require that the filings to the department required by this act be filed in an electronic format prescribed by the department.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2323 Municipal security issued without department approval; rating.

Sec. 323. The department may require a rating for a municipal security issued without approval of the department as provided in section 303(3) if the principal amount of the municipal security exceeds $5,000,000.00.

History: 2001, Act 34, Eff. Mar. 1, 2002.

PART IV

SHORT-TERM MUNICIPAL SECURITIES

141.2401 Short-term municipal securities; issuance; conditions; public airport authority.

Sec. 401. (1) A municipality may, by resolution of its governing body, and without a vote of the electors, issue short-term municipal securities in anticipation of and payable from taxes to be collected by the municipality for its then next succeeding fiscal year or the taxes for a current fiscal year, or if the taxes for the next succeeding fiscal year and the taxes for the current fiscal year are both levied in the same calendar year, then in anticipation of and payable from the collection of both of the taxes.

(2) By resolution of its governing body and without a vote of the electors, an authority organized under

1957 PA 206, MCL 259.621 to 259.631, or a public airport authority created or incorporated under the public airport authority act, chapter VIA of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.108 to 259.125c, may borrow money and issue short-term municipal securities maturing not more than 1 year from the date of issue in anticipation of the collection of revenues to which it will be entitled to receive within 1 year from the date of the short-term municipal securities' issuance. The amount of the short-term municipal securities issued under this section shall not exceed 50% of the revenues collected in the preceding fiscal year not pledged for the payment of a security other than a short-term municipal security issued under this section as conclusively certified by the governing body of the authority. The resolution shall provide for the pledging of all or a portion of the revenues of the authority not previously pledged for the payment of a security. The resolution may also provide for the pledging of other assets of the authority as additional security for the payment of the short-term municipal security. The resolution also shall provide that from the receipts of the revenues in anticipation of which the authority issued the short-term municipal security, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security a portion of each dollar received that is not less than 125% of the percentage that the principal amount of the short-term municipal security bears to the amount certified as the revenues estimated to be collected, until the amount set aside is sufficient for the payment of principal and interest on the short-term municipal security. The amount set aside shall be used only for the payment of the principal and interest on the short-term municipal security until the short-term municipal security is paid as to both principal and interest. Except when in conflict with the requirements of section 9 of 1957 PA 206, MCL 259.629, the short-term municipal securities authorized under this subsection are subject to this act.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002.

141.2403 Resolution authorizing municipal security; tax levy provision; operating expenditures; limitation; set aside of taxes collected; tax installments; capital improvements; debt service charges.

Sec. 403. (1) If a municipality issues a municipal security in anticipation of the collection of the taxes for the next succeeding fiscal year, the resolution authorizing a municipal security shall contain an irrevocable provision for the levying of a tax in the next succeeding fiscal year for the purpose for which the municipal security is to be made and the repayment of the municipal security from the receipt of taxes.

(2) A municipality may issue the short-term municipal security described in subsection (1) to pay for operating expenditures. As used in this section, “operating expenditures” means 1 or more of the following:

(a) Necessary operating expenditures of the municipality that could not reasonably have been foreseen and adequately provided for in the tax levy for the then current fiscal year.

(b) Payment of an expenditure in the then current fiscal year that cannot be funded because of a delay in or failure of receipt of budgeted revenue.

(c) Payment of budgeted expenditures in the then current fiscal year that precede budgeted revenues.

(3) The amount of the municipal securities issued under this section to pay operating expenditures shall not exceed 50% of the operating tax levy for the current fiscal year, or if the operating tax levy for the next succeeding fiscal year is determined, then 50% of the levy for the next succeeding fiscal year. The authorizing resolution shall provide that from the first collections of the operating taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the tax anticipation municipal security, a portion of each dollar that is not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of the operating taxes until the amount set aside is sufficient for the payment. If a municipality collects its taxes in installments and issues a municipal security in anticipation of more than 1 installment, the requirements of the preceding sentence shall apply to each installment of taxes. The collection of the taxes to be set aside shall not be used for any other purpose. If the municipality determines that issuing municipal securities for this purpose will result in a deficiency in the funds available to pay the necessary operating expenditures of the next succeeding fiscal year, the municipality shall levy additional taxes in the future from within constitutional, charter, and statutory limits to prevent a continuation of the deficiency from year to year.

(4) A municipality may issue a short-term municipal security described in subsection (1) to pay for 1 or more capital improvements that can be legally and properly provided for in the budget of the municipality for the fiscal year in which the municipality issues the short-term municipal security. The principal amount of the municipal security issued for this purpose shall not exceed the sum set forth in the authorizing resolution to be levied for the improvement. The authorizing resolution shall provide that from the first collection of taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security that percentage of the collection that the tax levied for capital outlay bears to the total levy, and until the amount set aside is sufficient for the payment, collection

of the taxes to be set aside shall not be used for any other purpose.

(5) A municipality may issue the short-term municipal security described in subsection (1) to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 500, Imd. Eff. July 3, 2002.

141.2405 Issuance of short-term municipal securities; payments allowed; operating expenditures or debt service charges; limitation; authorizing resolution; set aside of taxes collected; capital improvements; deduction of outstanding principal amount.

Sec. 405. (1) A municipality may issue short-term municipal securities in anticipation of the collection of the taxes for a current fiscal year for the payment of 1 or more of the following:

(a) Operating expenditures.

(b) Debt service charges.

(c) Capital improvements.

(2) If the municipality issues short-term municipal securities described in subsection (1) to pay operating expenditures or debt service charges, the principal amount of that municipal security issued under this section shall not exceed 75% of the amount of the debt service taxes, if the proceeds of the municipal security are to pay debt service charges, or 75% of the amount of the operating taxes, if the proceeds of the municipal security are to pay operating expenditures, as provided for in the budget of the current fiscal year and that remain to be collected at the time the authorizing resolution is passed. However, if the resolution is passed before the day upon which taxes for the year become due and payable, the principal amount of the municipal security shall not exceed 50% of the tax levy made for debt service or operating expenditures, respectively, for the preceding fiscal year.

(3) The authorizing resolution shall provide that, from the date of the authorizing resolution, from the collection of the taxes remaining to be collected for the current fiscal year there shall be set aside in a special fund, to be used for the payment of principal and interest on the short-term municipal security, a portion of each dollar of taxes remaining to be collected for the current fiscal year not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of the tax levied for debt service or operating expenditures, respectively, that remain to be collected from the date of the authorizing resolution until the amount set aside is sufficient for that payment. The collection of the taxes to be set aside shall not be used for any other purpose.

(4) A municipality may issue short-term municipal securities in anticipation of the collection of taxes for the current fiscal year for the payment of 1 or more capital improvements that are legally and properly provided for in the tax levy of the current fiscal year. The principal amount of the municipal security issued for this purpose shall not exceed the anticipated collection, based on the delinquency in collections of the levy of the preceding fiscal year, of the sum included in the tax levy for that purpose and remaining unpaid at the time the authorizing resolution is passed. The authorizing resolution shall provide that from the collections of the taxes for the current fiscal year there shall be set aside in a special fund to be used for the payment of principal and interest on the municipal security that percentage of the collections that the tax levied for capital outlay bears to the total levy, and until the amount set aside is sufficient for that payment, collection of the taxes to be set aside shall be used for no other purpose.

(5) The principal amount outstanding of any municipal security issued under section 403 shall be deducted from the total principal amount of any municipal security that may be issued under this section.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2407 Anticipation of revenue sharing payments; issuance of short-term municipal securities; payment of operating expenditures; authorizing resolution; set aside of amounts for payment of principal and interest.

Sec. 407. (1) A municipality may, by resolution of its governing body, and without a vote of the electors, issue short-term municipal securities in anticipation of revenue sharing payments under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, for its next succeeding fiscal year, or for a current fiscal year, in accordance with the provisions of this part.

(2) When a municipality issues municipal securities in anticipation of the receipt of revenue sharing payments under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, for the current or next succeeding fiscal year, the proceeds of the municipal securities shall be used only for the payment of operating expenditures. The principal amount of the municipal securities issued in accordance with this section shall not exceed 50% of the total payments received in the last preceding fiscal year of the municipality, as certified by the department. The authorizing resolution shall provide that from the first receipts of the payments for that fiscal year in anticipation of which the municipality issued the municipal

security, there shall be set aside in a special fund to be used for the payment of principal and interest on the municipal security a portion of each dollar that is not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of payments remaining to be collected, until the amount set aside is sufficient for the payment of principal and interest on the municipal security. The amount set aside shall be used only for the payment of the principal and interest on the municipal security until the municipal security is paid as to both principal and interest.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2409 Interest rate; limitation; payment.

Sec. 409. A municipal security issued pursuant to this part shall bear no interest or interest at a rate not to exceed that provided in part III and shall be payable not later than the estimated time of collection of an amount sufficient for its payment out of the taxes or revenues pledged for the municipal security, as determined by the governing body of the municipality.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2411 Money deposited in special fund; use.

Sec. 411. The money in each special fund required by this part shall be deposited in a bank account separate from any other money of the municipality and shall be used for no purpose other than to retire the municipal security for which the special fund was established.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2413 Anticipation of long-term municipal security proceeds; issuance of short-term municipal security; authorization of principal, interest, and redemption premiums; limitation on principal amount; use of proceeds.

Sec. 413. (1) A municipality may by resolution of its governing body, and without a vote of its electors, issue a short-term municipal security in anticipation of the proceeds of a long-term municipal security it proposes to issue, or that will be issued in its behalf. However, if required by law, issuance of the long-term municipal security has been approved by the electors of the municipality or, if required by law, a notice of intent to issue the long-term municipal security or enter into a contract has been published and all rights of referendum relating to the notice have expired. The municipality shall pledge for the payment of the principal, interest, and redemption premiums, if any, on the short-term municipal security from 1 or more of the sources and on the terms described in section 315 and from any of the additional sources identified in subsection (2).

(2) The municipality, in determining to issue a short-term municipal security under this section, may authorize principal, interest, and redemption premiums, if any, on the short-term municipal security to be payable from and secured by a pledge of the proceeds of the long-term municipal security issued to refund the short-term municipal security.

(3) The principal amount of a short-term municipal security issued in anticipation of the issuance of long-term municipal securities shall not exceed 50% of the principal amount of the proposed long-term municipal security. The municipality shall in the resolution authorizing the short-term municipal security declare the necessity of the short-term municipal security and state its purpose, the principal amount of the short-term municipal security to be issued, and an estimated principal payment schedule for and an estimated or maximum average annual interest rate on the short-term municipal security. The issuance and delivery of the short-term municipal security shall be conclusive as to the existence of the facts entitling the short-term municipal security to be issued in the principal amount of the short-term municipal security and shall not be subject to attack in any proceeding. A short-term municipal security shall mature not more than the earlier of 3 years from the date of issuance or 60 days after the expected date of issuance of the long-term municipal security in anticipation of which it is issued and may bear no interest or interest at a fixed or variable rate or rates of interest per annum, subject to the limitations in section 305.

(4) The proceeds of a short-term municipal security issued under this section shall be used only for the purpose to which the proceeds of the long-term municipal security may be applied, the costs of issuance of the short-term municipal security and to the payment of principal and interest on the short-term municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2415 Anticipation of state or federal grants; issuance of short-term municipal security; pledge of grant proceeds as payment of principal, interest, and redemption premiums; limitation on principal amount; use of municipal security proceeds.

Sec. 415. (1) A municipality may by resolution of its governing body, and without a vote of its electors, issue a short-term municipal security in anticipation of the receipt of grants from the United States, this state, or any agency or instrumentality of the United States or this state and shall pledge for the payment of the principal, interest, and redemption premiums, if any, on that municipal security from 1 or more of the sources and on the terms described in section 315 and from any of the additional sources identified in subsection (2).

(2) The municipality that issues a short-term municipal security under this section may pledge the proceeds of federal or state grants for the payment of the interest and redemption premiums, if any, on the municipal security.

(3) The principal amount of a municipal security issued under this section shall not exceed 50% of the amount remaining to be received by the municipality that is not still subject to an appropriation from the granting agency under a written contract from that granting agency that has been accepted by resolution by the municipality. The issuance and delivery of the municipal security shall be conclusive evidence of the facts entitling the municipality to issue the municipal security in the principal amount issued and shall not be subject to attack in any proceeding. The pledge of 100% of the funds the municipality expects to receive from the granting agency may be secured by a direct transfer of the committed funds from the granting agency to a trustee or the Michigan municipal bond authority, if the municipal security is sold to the Michigan municipal bond authority, that is authorized to receive the funds by the authorizing resolution adopted by the municipality. The municipal security issued under this section shall mature not more than the earlier of 18 months from the date of issuance or 6 months after the expected date of receipt of grant proceeds and may bear no interest or interest at a fixed or variable rate or rates of interest per annum, subject to the limitations of section 305.

(4) The proceeds of the municipal security issued under this section shall be used only for the purpose to which the proceeds of the grant may be applied, the costs of issuance of the municipal security, and the payment of principal and interest on the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

PART V

LONG-TERM MUNICIPAL SECURITIES

141.2501 Maturity time periods.

Sec. 501. (1) Except as otherwise provided for by law, or as otherwise provided in part VI, a municipal security issued by a municipality under this act shall not mature later than the estimated period of usefulness of the property or improvement for which the municipal security is issued.

(2) In addition to the requirements of subsection (1), a municipal security shall not mature later than the following time periods:

(a) A municipal security issued in anticipation of special assessments shall mature no later than 2 years after the time fixed by law for the payment of the last installment of the assessments from which the municipal security is payable.

(b) A municipal security issued to meet an emergency for relief from fire, flood, or other calamity shall mature no later than 5 years after the date of issuance.

(c) A municipal security issued to pay judgments against the municipality, except judgments in condemnation proceedings, and municipal securities issued for the purchase of personal property, other than material for permanent construction, machinery for public utilities, or original furnishings and equipment of new buildings, shall mature no later than 10 years after the date of issuance.

(d) All other municipal securities shall mature no later than 30 years after the date of issuance.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2503 Municipal securities of a single issue; maturity or redemption date; purchase at open market; redemption requirements; municipal securities of school district.

Sec. 503. (1) Municipal securities of a single issue may mature serially or be subject to mandatory redemptions, or both, with maturities as fixed by the governing body of the municipality. In any case, the first maturity or mandatory redemption date shall occur not later than 5 years after the date of issuance, and the total principal amount maturing or subject to mandatory redemption in any year after 4 years from the date of issuance shall not be less than 1/5 of the total principal amount maturing or subject to mandatory redemption in any subsequent year.

(2) In the resolution authorizing the issuance of a municipal security, the governing body of the municipality may provide that the municipality may purchase municipal securities in the open market at a price not greater than that payable on the next redemption date in order to satisfy all or part of the next succeeding scheduled mandatory redemption.

(3) The governing body of the municipality may provide that some or all of the principal amounts maturing in any year may be redeemed at the option of the municipality at the times, on the terms and conditions, and at the price as provided by resolution of the governing body, except that a municipality shall not agree to pay a premium exceeding 3% of the principal amount being redeemed.

(4) All outstanding and authorized municipal securities of a school district payable out of taxes may be treated as a single issue for the purpose of fixing maturities. Several series of municipal securities issued under the same authorization may be treated as a single issue for the purpose of fixing maturities.

(5) A municipal security issued by a school district that is sold in accordance with a federal program in which the holder of the municipal security, as a result of holding the municipal security, may declare a credit against a federal tax is exempt from the provisions of subsection (1) if the school district deposits in trust payments to provide for the repayment of the municipal security and the first required payment shall occur not later than 5 years after the date of issuance and each required payment in any year after 4 years from the date of issuance shall not be less than 1/5 of the total required payment in any subsequent year.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2505 Municipal securities secured by special assessments.

Sec. 505. The total amount of municipal securities secured by special assessments and pledging the limited tax full faith and credit of the municipality shall at no time by reason of future issues, other than issues of refunding securities, exceed 12% of the assessed value of the taxable property in the municipality. A municipality shall not issue municipal securities secured by special assessments in any calendar year in an amount greater than 3% of the assessed value of the municipality unless authorized by majority vote of the electors or by a larger vote as may be provided by statute or charter.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2507 Interest rate charge on special assessments.

Sec. 507. A municipality issuing a municipal security in anticipation of special assessments may, notwithstanding any charter or ordinance provisions to the contrary, charge a rate of interest on the unpaid balance of the special assessments in excess of the charter or ordinance limit on the municipal security, but not in excess of a rate of more than 1% above the average rate of interest borne by the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2509 Reserve fund; establishment.

Sec. 509. A municipality may pay interest that accrues on a municipal security during the first 3 years after the date of issuance of the municipal security from the proceeds of the sale of the municipal security. In addition, a municipality may establish a reserve fund, in an amount not exceeding 15% of the principal amount of the municipal security issued from the proceeds of the sale of the municipal security which shall be held solely for the payment of principal and interest on the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2511 Issuance of municipal securities to fund county drain special assessment.

Sec. 511. Any county, township, city, or village, by resolution of its governing body and without a vote of its electors, may issue municipal securities for the purpose of funding any part or all of a county or intercounty drain special assessment made against the county, township, city, or village at large under the provisions of the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630. A municipal security described in this section shall mature serially, the first annual maturity of which shall fall due not more than 2 years from the date of issuance and the last of which shall fall due not more than 10 years from the date of issuance or not more than 1 year after the due date of the last installment of the special assessment, whichever is later. No maturity shall be less than 1/2 of the amount of any subsequent maturity. A municipal security issued in accordance with this section may be issued in 1 or more series and may fund 1 or more drain special assessments. The principal amount of a municipal security that may be issued under this section shall not exceed the principal amount of the special assessments to be funded under this section. If any interest is to mature upon the municipal security prior to the time of the next county, township, city, or village tax collection, then the governing body of the county, township, city, or village shall make provision for the payment of that amount when due. The debt evidenced by a municipal security issued under this section shall not be included within the debt of a township, city, or village for any statutory or charter debt limitation purpose. No installment or installments of a special assessment shall be funded under this section unless payable in advance of the due date or due dates, and if the drainage district has issued municipal securities, an equal amount of the principal amount of the municipal securities must be redeemable within 90 days from the delivery of the municipal securities to the purchaser of those municipal securities. The provisions of this part together with the general provisions of this act shall govern the issuance of a municipal security authorized in this section except where inapplicable or inconsistent with this section. All municipal securities issued under this section shall be legal and valid, notwithstanding any illegality in the special assessments funded by those municipal securities.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2513 Debt incurred; issuance of municipal securities secured by limited tax full faith and credit pledge.

Sec. 513. (1) A municipality by resolution of its governing body or by entry into an intergovernmental contract pursuant to section 5 of 1951 PA 35, MCL 124.5, or pursuant to an amendment to a contract adopted and made effective in accordance with the terms of the contract, and without a vote of its electors, may incur debt that shall not be considered debt of the municipality for statutory, charter, or constitutional debt limits, and may issue municipal securities secured by a limited tax full faith and credit pledge for the purpose of either of the following:

(a) Paying premiums and other charges for coverages provided by a pool established pursuant to 1951 PA 35, MCL 124.1 to 124.13, or evidencing fixed payment securities or securities to make payments under specified contingencies pursuant to an intergovernmental self-insurance pool contract approved by the state treasurer, which contract is authorized under 1951 PA 35, MCL 124.1 to 124.13.

(b) Establishing funds, reserves, or accounts in amounts determined by the municipality to defray losses for which insurance coverage could be provided by an insurer pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, but for which the municipality has determined to self-insure.

(2) Notwithstanding any provision of this act to the contrary, the municipal security issued under this section shall be issued for the period of time determined by the governing body of the municipality or pursuant to the contract, but not to exceed 30 years.

(3) A municipal security authorized under subsection (1)(a), other than a municipal security to make payments under specified contingencies, shall not be of a term exceeding the coverage provided in consideration for receipt of the proceeds of the municipal security. A municipal security, other than a municipal security issued to make payments under specified contingencies, may mature annually or be subject to mandatory redemption requirements, with the first annual maturity or mandatory redemption requirement to fall due 10 years or less from the date of issuance. Annual maturity or redemption requirements, or a combination of both, of a municipal security issued under this section other than a municipal security issued to make payments under specified contingencies, after 10 years from the date of issuance shall not be less than 1/10 of the amount of any subsequent annual maturity or redemption requirement, or combination of both. A municipal security issued pursuant to subsection (1)(b) shall be subject to the provisions of this act relating to the municipal security. A municipal security issued or incurred under subsection (1)(a) shall be subject to this section only and not to any other section or part of this act. The self-insurance pool shall submit for approval by the state treasurer a copy of the intergovernmental contract pursuant to which a municipal security is to be issued or incurred under subsection (1)(a) prior to the effectiveness of the municipal security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2515 Water supply or sewage disposal, public building, or other public improvement; delivery of municipal security to defray cost.

Sec. 515. (1) A municipality may deliver a municipal security to this state or the federal government for the purpose of defraying the whole or part of the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing any water supply or sewage disposal system or public building or other public improvement.

(2) Parts IV, V, and VI do not apply to any municipal security delivered to this state or the federal government to the extent the requirements of this state or the federal government relating to any of the terms of the debt conflict with the provisions of this act.

(3) As used in this section:

(a) “Federal government” means the federal government or any agency of the federal government.

(b) “This state” means this state or any department, agency, board, commission, fund, corporation, or authority of this state.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2517 Capital improvement items; issuance of municipal security to pay cost; notice of intent; petition; referendum; special election; limitation on amount.

Sec. 517. (1) A county, city, village, or township may by resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay the cost of any capital improvement items, provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law.

(2) If a county, city, village, or township issues a municipal security under this section, before issuance, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent shall be directed to the electors of the county, city, village, or township, shall be published in a newspaper that has general circulation in the county, city, village, or township, and shall state the maximum amount of municipal securities to be issued, the purpose of the municipal securities, the source of payment, the right of referendum on the issuance of the municipal securities, and any other information the county, city, village, or township determines necessary to adequately inform the electors of the nature of the issue. The notice of intent shall not be less than 1/4 page in size in the newspaper. If, within 45 days after the publication of the notice of intent, a petition, signed by not less than 10% or 15,000 of the registered electors, whichever is less, residing within the county, city, village, or township, is filed with the governing body of the county, city, village, or township, requesting a referendum upon the question of the issuance of the municipal securities, then the municipality shall not issue the municipal securities until authorized by the vote of a majority of the electors of the county, city, village, or township qualified to vote and voting on the question at a general or special election. A special election called for this purpose shall not be included in a statutory or charter limitation as to the number of special elections to be called within a period of time. Signatures on the petition shall be verified by a person under oath as the actual signatures of the persons whose names are signed to the petition, and the governing body of the county, city, village, or township shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in the county, city, village, or township shall be determined by the governing body of the county, city, village, or township.

(3) Municipal securities issued under subsection (1) by a county, city, village, or township shall not exceed 5% of the state equalized valuation of the property assessed in that county, city, village, or township.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002.

PART VI

REFUNDING

141.2601 Issuance of refunding securities.

Sec. 601. (1) Subject to this act, a municipality may, by resolution or ordinance adopted by its governing body and without a vote of its electors, refund all or any part of its outstanding securities by issuing refunding securities as described in this part.

(2) A municipality may issue a refunding security whether the outstanding security to be refunded has or has not matured, is or is not redeemable on the date of issuance of the refunding security, exceeds the original estimated period of usefulness but not to exceed the current period of usefulness as determined by the project engineer or architect, or is or is not subject to redemption before maturity.

(3) A refunding security may be issued in a principal amount greater than the principal amount of the outstanding securities to be refunded as necessary to effect the refunding under the refunding plan.

(4) A municipality may use the proceeds of a refunding security to pay interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the outstanding security to be refunded, redemption premium, if any, and any commission, service fee, and other expense necessary to be paid in connection with the outstanding security to be refunded. A municipality may also use the proceeds of a refunding security to pay part of the cost of issuance of the refunding security, interest on the refunding security, a reserve for the payment of principal, interest, and redemption premiums on the refunding security, and other necessary incidental expenses, including, but not limited to, placement fees and fees or charges for insurance, letters of credit, lines of credit, or commitments to purchase the outstanding security to be refunded.

(5) A municipality may invest the proceeds of a refunding security as provided in section 607(2).

(6) To the extent provided by the proceedings authorizing the refunding security, principal, interest, and redemption premiums on the refunding security shall be secured by and payable from any or all of the following sources:

(a) Taxes or special assessments pledged for payment of a municipal security being refunded.

(b) The proceeds of the refunding security.

(c) The reserve, if any, established for the payment of the principal, interest, and redemption premiums on, the refunding security or the outstanding security to be refunded.

(d) The proceeds of any insurance, letter of credit, or line of credit acquired as security for the refunding security.

(e) The proceeds of any refunding securities issued to refund the refunding security.

(f) Revenues pledged for the outstanding security being refunded.

(g) Investment earnings or profits on any of the sources described in subdivisions (a) to (f).

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2603 Assumption of outstanding security by another municipality; refunding.

Sec. 603. (1) Any outstanding security of a municipality that has been assumed in part by another municipality may be refunded by the municipalities as to their respective liabilities.

(2) This act shall not be construed to prohibit a municipality from refunding any of its outstanding securities even though some other municipality may be required to contribute to the payment of those outstanding securities, and that refunding is hereby expressly authorized. Refunding authorized under this subsection does not relieve any other municipality from a pledge to make a contribution to the payment of an outstanding security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2605 Debt as additional to statutory or charter limitation of tax rate or outstanding debt limit.

Sec. 605. The debt evidenced by a refunding security and the tax levies used to repay the refunding security shall not be deemed to be within any statutory or charter limitation of tax rate or of outstanding debt limit, but shall be deemed to be authorized in addition to any statutory or charter limitation of tax rate or outstanding debt limit.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2607 Application of refunding security proceeds and available money.

Sec. 607. (1) Money on hand applicable to the retirement of outstanding securities to be refunded, or from proceeds of revenues pledged for these purposes, or both, shall be applied as provided in the authorizing resolution.

(2) The proceeds of a refunding security and other available money may be applied to payment of the principal, interest, or redemption premiums, if any, on the refunded outstanding securities at maturity or on any prior redemption date or may be deposited in trust for use to purchase and deposit in trust direct obligations of the United States, direct noncallable and nonprepayable obligations that are unconditionally guaranteed by the United States government as to full and timely payment of principal and interest, noncallable and nonprepayable coupons from the above obligations that are stripped pursuant to United States treasury programs, and resolution funding corporation bonds and strips, the principal and interest on which when due, together with other available money, will provide funds sufficient to pay principal, interest, and redemption premiums, if any, on the refunded outstanding securities as the refunded outstanding securities become due, whether by maturity or on a prior redemption date, as provided in the authorizing resolution.

(3) The pledge and covenants of a municipality related to refunded outstanding securities for which the municipality has deposited in trust proceeds of a refunding security and other available money as described in subsection (2) is considered to have been fully and legally performed and defeased.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2609 Conditions for securing certain outstanding municipal securities.

Sec. 609. A refunding security issued to refund municipal securities issued under the terms of the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, shall be of the same character as the refunded outstanding municipal security and shall be construed to be a continuation of the refunded outstanding municipal security. A refunding security issued to refund an outstanding municipal security secured by an unlimited tax full faith and credit pledge shall be secured by an unlimited tax full faith and credit pledge. Refunding securities for outstanding securities issued under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, shall be secured by the same pledge as the outstanding securities being refunded. All other refunding securities issued under this part shall be secured by a limited tax full faith and credit pledge of the issuing municipality.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2611 Refund of outstanding securities by issuance of refunding security; prohibition; exception; procedures; reasonable basis.

Sec. 611. (1) Except as provided in section 515 or subsection (2), a municipality shall not refund all or any part of its outstanding securities by issuing a refunding security unless the net present value of the principal and interest to be paid on the refunding security, including the cost of issuance, and taking into account an agreement entered into pursuant to section 317, is less than the net present value of the principal and interest to be paid on the outstanding security being refunded as calculated using a method approved by the department. However, when a municipality is issuing refunding securities for outstanding variable interest rate securities, as determined by the department the net present value calculation shall use the appropriate current fixed interest rate and the fixed interest rate that would have been available for the outstanding variable interest rate securities when originally issued if the outstanding variable interest rate securities had been issued as fixed interest rate securities or shall use another procedure determined by the department.

(2) A municipality may, under procedures established by the department, obtain an exception from the requirements of subsection (1) if the department determines a reasonable basis for that exception exists. As used in this subsection, reasonable basis means 1 or more of the following:

(a) The refunding is required by a state or federal agency.

(b) The refunding is necessary to reduce or eliminate requirements of ordinances or covenants applicable to the existing outstanding security.

(c) The refunding is necessary to avoid a potential default on an outstanding security.

(d) The refunding of a short-term municipal security issued under section 413.

(e) A municipality may issue a refunding security to refund all or any part of its outstanding securities before December 31, 2012 if those securities are not secured by the unlimited full faith and credit pledge of the municipality and the refunding is approved by the department. The municipality shall hold a public hearing before submitting a request to the department pursuant to this subdivision. The municipality shall publish notice of the hearing in a newspaper of general circulation in the municipality not less than 30 days before the hearing. After the hearing, the municipality may prepare and submit to the department a request to issue a refunding security pursuant to this subdivision. The department shall not unreasonably withhold approval. The department shall have 90 days from the date it receives a completed request to issue a refunding security pursuant to this subdivision to approve or deny the request. If the department fails to approve or deny the request within 90 days of receiving the completed request, the municipality's request is deemed approved by the department. If the department denies the request, it shall advise the municipality in writing of the reasons for the denial.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 500, Imd. Eff. July 3, 2002;—Am. 2010, Act 321, Imd. Eff. Dec. 21, 2010
.

141.2613 Refunding securities; effect of 141.2503.

Sec. 613. Refunding securities are not subject to section 503(1), (2), and (3).

History: 2001, Act 34, Eff. Mar. 1, 2002.

PART VII

TAX LEVIES, DEBT RETIREMENT, AND SINKING FUND

141.2701 Annual tax levy; determination; limitation not applicable; adjustment in event of surplus funds; use of money remaining in debt retirement fund; priority; set aside of tax collections allocable to principal and interest payment; failure of officer to perform duties; “tax levy” defined.

Sec. 701. (1) Subject to subsection (3), if a municipality has municipal securities outstanding, or with the approval of its electors has authorized the issuance of municipal securities to be paid from collections of its next tax levy, an officer or official body charged with a duty in connection with the determination of the amount of the next taxes to be raised or with the levying of the next taxes, shall include all of the following in the amount of taxes levied each year:

(a) An amount such that the estimated collections will be sufficient to promptly pay, when due, the interest on all municipal securities and the portion of the principal falling due whether by maturity or by mandatory redemption before the time of the following year's tax collection.

(b) An amount, if there are outstanding mandatory redemption refunding securities, sufficient to provide the sum required to be deposited, by the ordinance or resolution authorizing the issue, into the sinking fund for that purpose before the time of the following year's tax collection.

(c) An amount, if there are outstanding mandatory redemption municipal securities other than refunding securities not required to be redeemed in annual amounts before the maturity of the outstanding mandatory redemption municipal securities, that if deposited annually into a sinking fund will, with the existing sinking fund pertaining to the municipal securities and the increment of the municipal securities, be sufficient to pay the municipal securities at maturity.

(d) An amount necessary to pay debt service charges or obligations on municipal securities or agreements described in section 317(5) falling due in the immediately preceding fiscal year, to the extent that the tax levy in the preceding fiscal year was inadequate to pay, when due, the debt service charges or obligations on municipal securities or agreements described in 317(5). The municipality shall do 1 or more of the following with the proceeds of the tax levy:

(*i*) Deposit in the debt retirement fund established for the municipal securities and used to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).

(*ii*) Use to pay debt service on short-term municipal securities issued under section 403(5).

(*iii*) Use to reimburse the municipality for any advances of funds used for the purposes described in subparagraph (*i*) or (*ii*).

(2) Subsection (1) does not limit the amount required to be levied in a year for the purposes prescribed in that subsection, by the terms of an ordinance or resolution authorizing the issuance of the municipal securities.

(3) If the municipal securities were authorized or issued before December 23, 1978, or were approved by the electors of a municipality, the municipality shall levy the full amount of taxes required by this section for the payment of the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy. If the municipal securities were authorized or issued by a municipality after December 22, 1978, and were not approved by the electors of the municipality, the municipality shall set aside each year from the levy and collection of ad valorem taxes as required by this section as a first budget obligation for the payment of the municipal securities. However, the ad valorem taxes shall be subject to applicable charter, statutory, or constitutional rate limitations.

(4) If there is surplus money on hand for the payment of principal or interest at the time of making an annual tax levy, and provision has not been made in the authorizing resolution for the disposition of that money, the annual levy for principal or interest shall be adjusted to reflect available funds.

(5) Money remaining in a debt retirement fund from the levy of a tax or an account within a debt retirement fund from the levy of a tax after the retirement of all municipal securities payable from that fund shall be used in the following order of priority:

(a) To pay other outstanding unlimited tax full faith and credit municipal securities.

(b) To pay other outstanding limited tax full faith and credit municipal securities.

(c) To be deposited in the general fund of the municipality.

(6) As taxes are collected, there shall be set aside that portion of the collections that is allocable to the payment of the principal and interest on the municipal securities. The portion set aside shall be divided pro rata among the various sinking funds and debt retirement funds in accordance with the amount levied for that purpose. Tax collections paid into a debt retirement fund, if the fund is for the payment of more than 1 issue of municipal securities, shall be allocated on the books and records of the municipality between the various issues in accordance with the amounts levied for that purpose.

(7) An officer who willfully fails to perform duties required by this section is personally liable to the municipality or to a holder of a municipal security for loss or damage arising from his or her failure.

(8) As used in this section, “tax levy” includes special assessments.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 500, Imd. Eff. July 3, 2002.

141.2705 Debt retirement funds; accounting; use; pooled or combined for deposit or investment; certification of debt retirement.

Sec. 705. (1) Debt retirement funds, except in the case of a common debt retirement fund maintained by a school district pursuant to section 1223 of the revised school code, 1976 PA 451, MCL 380.1223, shall be accounted for separately and, debt retirement funds, except as provided in section 701(5), shall be used only to retire the municipal securities of the municipality for which the debt retirement fund was created. Debt retirement funds created for the following categories of debt evidenced by a municipal security may be pooled or combined for deposit or investment purposes only with other debt retirement funds created for the same category of debt evidenced by a municipal security:

(a) Voted debt.

(b) Nonvoted debt, other than special assessment debt.

(c) Special assessment debt.

(2) When any municipality completes the retirement of a debt evidenced by a municipal security or accumulates sufficient funds in the debt retirement fund for the retirement of the debts evidenced by a municipal security, the governing body of the municipality shall certify that the debt evidenced by a

municipal security is retired or that the debt retirement fund is of sufficient amount to retire the debt evidenced by a municipal security to the county treasurer of the county in which the municipality is located, and the county treasurer shall no longer be required to recognize a levy for the debt or municipal security issue.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2707 Sinking fund; use; deposit; accounting.

Sec. 707. Any municipality issuing a mandatory redemption refunding security under the provisions of part VI shall provide a sinking fund or funds for the retirement of the refunding security, and there shall be deposited in each sinking fund annually an amount sufficient to pay the principal of that refunding security at or before maturity. All sinking fund money for the retirement of a refunding security shall be accounted for separately and shall be used only for the payment or purchase of the refunding security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

CHAPTER VIII

141.2801 Effective date.

Sec. 801. This act takes effect March 1, 2002.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2802 Outstanding municipal security; default; powers of department; plan; implementation.

Sec. 802. (1) If a municipality fails to pay any installment of principal or interest on an outstanding municipal security on or before its due date, the state treasurer, for a municipality other than a school district, or the superintendent of public instruction, for a school district, may take that action it considers advisable to investigate the municipality's fiscal affairs, may consult with the governing body of the municipality, and may negotiate with the municipality's creditors in order to assist the municipality in developing a plan for financing, adjusting, or compromising the outstanding municipal security for which a payment of an installment of principal or interest had not been paid. As a component of a plan for financing the outstanding municipal security that has been defaulted upon, the department may agree and shall have the power to withhold all or part of state payments under an appropriation made to the municipality, the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, or the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, that the municipality is entitled to receive and to use these withheld amounts to pay unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding municipal security.

(2) When a plan is developed that the department finds to be fair and equitable and reasonably within the ability of the municipality to meet, the department shall enter an order finding that it is fair, equitable, and within the ability of the municipality to meet. The department shall then advise the governing body to take the necessary steps to implement the plan. If the governing body declines or refuses to do so within 90 days after receiving the department's advice, the department shall be vested with all powers of the municipality, its governing body, and its officers that are necessary to implement the plan. When the department is vested with the authority to implement the plan, the members of the governing body and all officers and employees of the municipality shall be under an affirmative duty to do all things the department determines to be necessary to implement the plan. The department may institute appropriate proceedings in the courts of this state, including those for writs of mandamus and injunctions, to enforce the department's implementation of the plan and compliance with the plan by the governing body and other officers and employees of the municipality.

History: Add. 2002, Act 541, Imd. Eff. July 26, 2002.

141.2803 Repeal of MCL 131.1 to 132.4, 133.1 to 133.9, 133.12 to 133.15, and 134.1 to 139.3; effective date of repeal of MCL 133.10 to 133.11.

Sec. 803. (1) The following are repealed effective March 1, 2002:

(a) Chapters I, II, IV, V, VI, VII, VIII, and IX of the municipal finance act, 1943 PA 202, MCL 131.1 to 132.4 and 134.1 to 139.3.

(b) Sections 1 to 9 and sections 12 to 15 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.1 to 133.9 and 133.12 to 133.15.

(2) The municipal finance act, 1943 PA 202, 133.10 to 133.11, is repealed effective April 30, 2002.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2805 Repeal of administrative rules of municipal finance division; effective date.

Sec. 805. The administrative rules of the municipal finance division are repealed effective March 1, 2002.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2807 Exceptions from prior approval of debts or securities; effect of orders; applicability of terms.

Sec. 807. All orders granting exceptions from prior approval of debts or securities issued by the department shall continue in force and effect until the expiration date expressly contained in the order. The terms of the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, and the administrative rules of the municipal finance division shall apply with respect to any security issued pursuant to an order of the department that was issued before May 1, 2002.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2809 Effect of orders approving issuance of securities.

Sec. 809. All orders approving the issuance of securities issued by the department shall continue in force and effect until October 31, 2002. The terms of former 1943 PA 202 and the administrative rules of the municipal finance division shall apply with respect to any security issued pursuant to an order of the department that was issued before May 1, 2002.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 541, Imd. Eff. July 26, 2002.

141.2811 Effect of MCL 141.2303.

Sec. 811. Except as provided by sections 807 and 809, section 303 replaces and reenacts sections 10 and 11 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.10 and 133.11.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2813 Effect of MCL 141.2317.

Sec. 813. Except as provided by sections 807 and 809, section 317 replaces and reenacts section 15 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.15.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2815 Repealed. 2002, Act 541, Imd. Eff. July 26, 2002.

Compiler's note: The repealed section pertained to exemption of certain security from act.

141.2817 Effect of MCL 141.2305.

Sec. 817. Except as provided by sections 807 and 809, section 305 replaces and reenacts section 1a of chapter III of the municipal finance act, 1943 PA 202, MCL 133.1a.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2819 Validation of previously issued securities.

Sec. 819. Any securities previously issued under or in accordance with the authority contained in the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, are hereby validated.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2821 Issuance of municipal security beginning March 1, 2002 and ending April 30, 2002; qualified status.

Sec. 821. (1) Beginning March 1, 2002 and ending April 30, 2002, a municipality planning to issue a municipal security may do either of the following:

(a) Seek approval or exception from prior approval of the municipal security from the department in accordance with sections 10 and 11 of chapter III of the municipal finance act, 1943 PA 202, MCL 133.10 and 133.11.

(b) Seek qualified status in accordance with section 303, by filing a qualifying statement referencing the most recent audit report of the municipality previously filed with the department prior to the effective date of this act, or if not previously timely filed, by attaching a copy of the audit report for the most recently completed fiscal year for which an audit has been completed.

(2) If a municipality elects to seek qualified status as described in subsection (1) during the period between March 1, 2002 and May 1, 2002, the department shall determine within 30 business days of receipt of the qualifying statement whether the municipality complies with the requirements of section 303(3). If the department determines that the municipality complies with the provisions of section 303(3) or if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the qualifying statement, the municipality may proceed to issue municipal securities in

accordance with this act without further approval from the department until 30 business days after the next qualifying statement is due or received by the department, whichever occurs first.

(3) If a municipality is not granted qualified status pursuant to subsection (2), or if a municipality does not file a qualifying statement as described in subsection (1), the municipality shall comply with section 303(7) for each municipal security issued until the municipality obtains qualified status based on the audit report and qualifying statement next duly filed by the municipality in accordance with section 303.

History: 2001, Act 34, Eff. Mar. 1, 2002.